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TUESDAY, SEPTEMBER 28, 1976



highlights

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NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 10394 ..... Pub. Law 94–417
To amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes
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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
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DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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DOT/OPSO	LABOR		DOT/OPSO	LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 42—STANDARDS FOR CONDITION OF FOOD CONTAINERS

Miscellaneous Amendments

Under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621, et seq.), the U.S. Department of Agriculture hereby amends the U.S. Standards for Condition of Food Containers (7 CFR Part 42).

STATEMENT OF CONSIDERATIONS

On November 12, 1975, a rulemaking proposal was published in the FEDERAL REGISTER (40 FR 52735) setting forth proposed miscellaneous amendments to the standards for the condition of food containers. The amendments provide optional skip lot sampling procedures that reward good processors by reducing inspection costs and by reducing destructive sampling. The amendments also provide an additional defect in the table of defects for "Label, Numbering, or Code" (§ 42.113) and add additional numbers for clarification in Table III–B "Limit Numbers for Reduced Inspection," (§ 42.111). Some definitions were also added for clarification.

Interested persons were given until June 1, 1976, to comment on the proposal. No comments were received. However, a commodity division of the Agricultural Marketing Service used the proposed skip lot sampling procedures on a trial basis and found them to be satisfactory.

Since the amendments will improve the condition of container standards by providing additional inspection procedures and by clarifying certain sections, the Department has decided to promulgate the amendments as proposed.

1. In § 42.102, the following new definitions are added in alphabetical order to read:

§ 42.102 Definitions, general.

* * * * *

"Probability of Acceptance." The chance that a lot with a given level of quality will be accepted. Probability of acceptance is synonymous with "Percent of Lots Expected to be Accepted." The probability of acceptance is normally designated as "Pa" but is designated as "Pas" when referring to skip lot sampling and inspection.

* * * * *

"Stationary Lot Sampling." The process of randomly selecting sample units from a lot whose production has been completed. This type of lot is usually stored in a warehouse or in some other storage area and is offered "in toto" for inspection.

* * * * *

"User." The person or agency at whose request inspection is conducted.

2. In Subpart B the title is amended to read:

Subpart B—Procedures for Stationary Lot Sampling and Inspection

3. In § 42.103, the first sentence in paragraph (a) is amended and a new paragraph (c) is added to read as follows:

§ 42.103 Purpose and scope.

(a) This subpart outlines the procedures to be used to establish the condition of containers in stationary lots of packaged foods. * * *

* * * * *

(c) Under certain conditions, special procedures (Skip Lot Sampling and Inspection) may be used to determine the condition of containers in stationary lots of packaged foods. Subpart C sets forth the requirements and procedures for Skip Lot Sampling and Inspection.

§ 42.111 [Amended]

4. In § 42.111, columns 2.4, 4.0, 6.5, and 10.0 in Table III–B are amended to read as follows:

TABLE III–B.—*Limit numbers for reduced inspection*

[Acceptable quality level]

2.5	4.0	6.5	10.0
4	8	14	24
7	14	25	40
14	24	42	68
24	40	69	110
40	68	115	181
67	111	186	293
110	181	302	472
181	297	491	765
290	471	777	1207

5. In § 42.112 the title is amended to read:

§ 42.112 Defects of Containers: Tables IV, V, VI, AND VII.

* * * * *

6. In § 42.113, Table VIII is revised to read:

§ 42.113 Defects of label, marking or code: Table VIII.

TABLE VIII.—*Label, marking, or code*

Defects	Categories	
	Major	Minor
Not specified method	101	
Missing (when required)	102	
Loose or improperly applied		201
Torn or mutilated		202
Torn or scratched, obliterating any markings on the label (military purchases)	103	
Text illegible or incomplete		203
Incorrect		204
In wrong location		205

7. Subpart C is revised to read:

Subpart C—Skip Lot Sampling and Inspection Procedures

Sec.

42.120 Description and qualification.
42.121 Sampling and inspection procedures.
42.122 Applicability of other procedures.
42.123 Flow diagram for skip lot sampling and inspection.

AUTHORITY: Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 et seq.)

Subpart C—Skip Lot Sampling and Inspection Procedures

§ 42.120 Description and qualification.

Skip lot sampling and inspection are special procedures for inspecting stationary lots in which only one-half or one-fourth of the lots offered for inspection are formally inspected. Skip lot sampling and inspection procedures may be instituted only when all of the following conditions are met:

(a) When authorized by the Administrator and acceptable to the user and producer, if different from the user.

(b) When inspection is origin inspection (see § 42.102).

(c) When all lots can be expected to be of essentially the same quality.

(d) When lots from the producer are currently on, or eligible to be on, either normal or reduced inspection.

§ 42.121 Sampling and inspection procedures.

(a) Following skip lot procedure authorization, inspect every lot consecutively offered for inspection using normal inspection procedures as set forth in Subpart B of this part. When 10 consecutive lots are acceptable, inspect only one-half of the lots offered for inspection using normal inspection procedures. While on the one-half inspection rate, when 10 consecutively inspected lots are acceptable, inspect only one-fourth of

the lots offered for inspection using normal inspection procedures. While on the one-half or one-fourth inspection rate, if any formally inspected lot is unacceptable, revert immediately to the inspection of every lot using normal inspection procedures and recommence the above procedure. See § 42.123 for a flow diagram of the skip lot sampling plan.

(b) Two exceptions to the procedures in paragraph (a) of this section are as follows:

(1) The skip lot sampling and inspection rate of one-half can be instituted immediately if the lots from the producer are currently on, or eligible to be on, reduced inspection and all other conditions in § 42.120 are met. After skip lot sampling and inspection begins, however, only normal inspection is permitted.

(2) While inspecting every lot consecutively as offered for inspection, i.e., while not on the one-half or one-fourth sampling and inspection rate, if requirements for switching from normal to tightened inspection are met as specified in § 42.108 then skip lot procedures terminate, tightened inspection is initiated, and stationary lot sampling and inspection procedures in Subpart B are instituted. Skip lot procedures may be instituted again only when all conditions of § 42.120 are met.

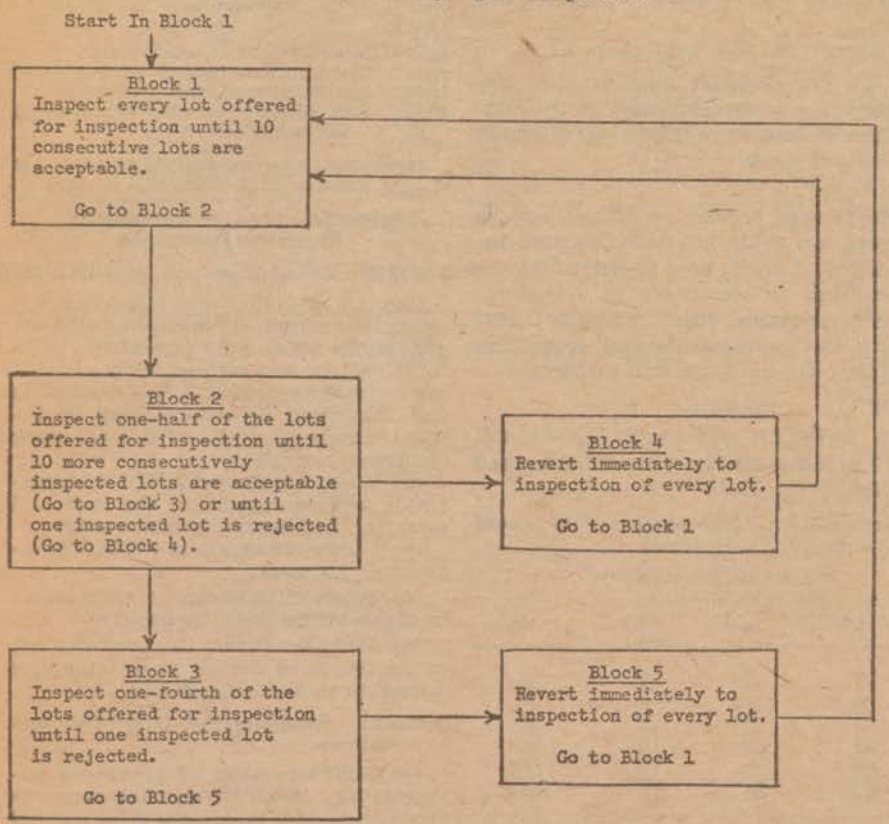
(c) All lot selections for the one-half and one-fourth inspection rates must be strictly random (for example, not every other lot or every fourth lot). Use of random number tables, coin flipping, or numbered cards is encouraged.

(d) Preliminary scanning procedures (see § 42.105) shall be used on all lots scheduled for formal inspection and also shall be used on lots not scheduled for inspection ("skipped" lots) whenever the inspector feels such action is prudent to further insure the acceptability of such lots.

§ 42.122 Applicability of other procedures.

Whenever appropriate, the procedures for classifying and recording defects in § 42.106 and for appeal inspections in § 42.108 also apply to skip lot sampling and inspection.

§ 42.123 Flow diagram for skip lot sampling and inspection.



NOTES: v. Only normal inspection is permitted.

2. All lot selections for the one-half and one-fourth sampling rates must be strictly random (for example, not every other lot or every fourth lot).

3. Two exceptions to the procedures shown above are as follows:

(a) The skip lot sampling and inspection rate of one-half can be instituted immediately if the lots from the producer are currently on, or eligible to be on, reduced inspection and all other conditions in § 42.120 are met. When skip lot inspection begins, however, only normal inspection is permitted.

(b) While inspecting every lot consecutively as offered for inspection, i.e., while not on the one-half or one-fourth rate, if requirements for switching from normal to tightened inspection are met as specified in § 42.108 then skip lot procedures terminate, tightened inspection is initiated, and stationary lot sampling and inspection procedures in Subpart B are instituted. Skip lot procedures may be instituted again only when all conditions of § 42.120 are met.

8. All of the material presently appearing in Subpart C "Miscellaneous" is incorporated in a new Subpart D "Miscellaneous," except that § 42.115 is redesignated as § 42.140, the title is amended to read "Operating Characteristic Curves (OC) For Stationary Lot Sampling and Inspection," and new §§ 42.141 and 42.142 are added to read:

Subpart D—Miscellaneous

Sec.
42.140 Operating Characteristic curves (OC) for stationary lot sampling and inspection.
42.141 Obtaining Operating Characteristic (OC) curve information for skip lot sampling and inspection.
42.142 Curve for obtaining Operating Characteristic (OC) curve information for skip lot sampling and inspection.

AUTHORITY: Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 et seq.).

Subpart D—Miscellaneous

§ 42.140 Operating Characteristic curves (OC) for stationary lot sampling and inspection.

§ 42.141 Obtaining Operating Characteristic (OC) curve information for skip lot sampling and inspection.

The Operating Characteristic (OC) curve information (probability of acceptance) for skip lot sampling and inspection procedures described in § 42.121 is easily obtained from the single curve in § 42.142. The procedure for using the curve in § 42.142 is as follows:

(a) Select any sampling plan for normal condition of container inspection from Table I or Table I–A of § 42.109.

(b) For a given Quality of Submitted Lots, $100p$, find the Percent of Lots Expected to be Accepted, Pa from the respective OC curve in § 42.140.

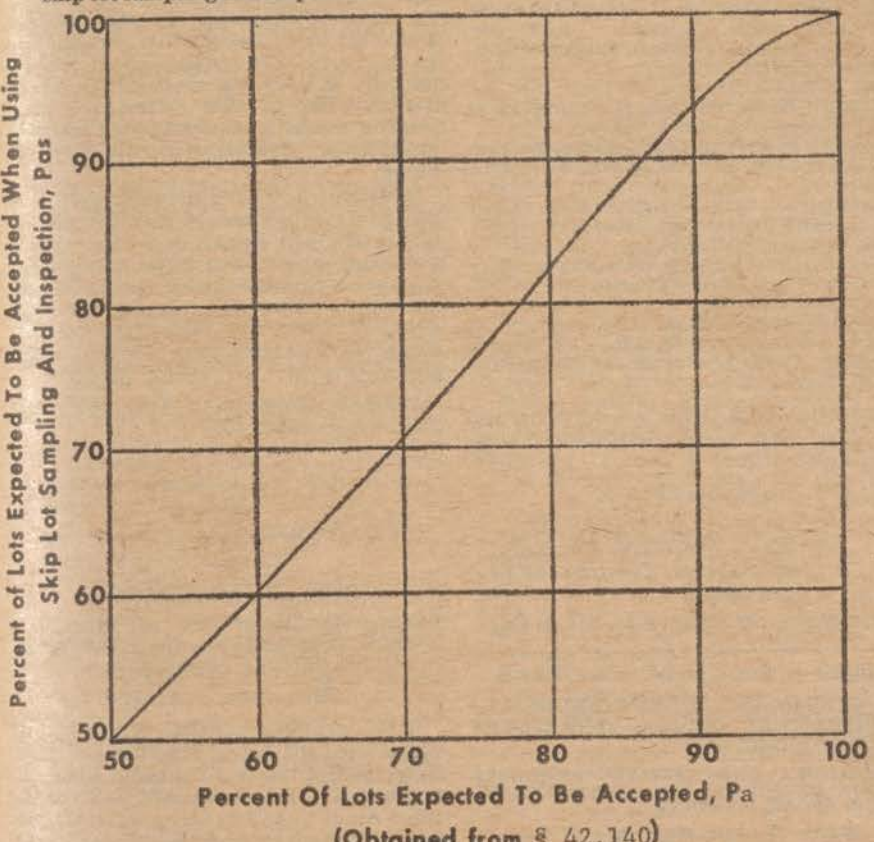
(c) Refer to § 42.142 with this Percent of Lots Expected to be Accepted, Pa, and read the new Percent of Lots Expected to be Accepted, Pas, which results when using these skip lot procedures.

For example, let's assume the lot size is 6,001 to 12,000 containers, and we use the single sampling plan of size 168 for normal inspection (Table I of § 42.109) along with an AQL for total defects of 6.5. The OC curve for this sampling plan is curve N and R3. Also, assume that the quality of the lot is 6.5 defects per hundred units. From curve N and R3, then, the Pa is determined to be 95 percent. Then refer to the graph in § 42.142 and locate Pa of 95 percent along the horizontal axis. From this point, proceed vertically to the curve and then horizontally to the left to the vertical axis. From this point on the vertical axis, Pas

is determined to be approximately 98[1] percent for skip lot sampling and inspection.

[1] This slight increase of Pas over Pa results because all the lots offered for inspection are no longer being inspected. Some lots are being "skipped", and thereby accepted, which would have been rejected if inspected. The largest increase in Pa which will occur using skip lot sampling is approximately 4 percent. It is for this reason that skip lot sampling procedures are applied only in instances where past production quality has been consistently high—as evidenced by the requirement to have 10 consecutively acceptable lots prior to a reduction in sampling rate—and where all requirements in § 42.120 also have been met.

§ 42.142 Curve for obtaining Operating Characteristic (OC) curve information for skip lot sampling and inspection.



(Obtained from § 42.140)

NOTES: 1. This curve applies only to the specific skip lot sampling and inspection plan described in § 42.121 and § 42.123.

2. Pa and Pas are essentially equal for values under 50 percent.

Issued at Washington, D.C., on September 22, 1976, to become effective November 1, 1976.

DONALD E. WILKINSON,
Administrator.

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CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.1]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

Section 1822.3 and Exhibit G of Subpart A of Part 1822, Chapter XVIII, Title 7 of the Code of Federal Regulations (39 FR 44993 as amended at 40 FR 42178; 41 FR 15686; 41 FR 27970) are amended and revised. Paragraph (c) (2) of §1822.3 is amended to change the definition of a rural area so that it clearly excludes those areas associated with an urban area regardless of their population or other eligibility criteria.

This regulation also has been amended to comply with recently passed P.L. 94–375, the Housing Authorization Act of 1976, which required an area of 10,000–20,000 population outside a Standard Metropolitan Statistical Area (SMSA) to have a lack of mortgage credit for low and moderate income families in order to be a rural area. Exhibit G has been similarly revised.

The amendment to Exhibit G deletes two communities which have been determined to be within an SMSA, and adds certain communities as being eligible for Farmers Home Administration (FmHA) rural housing programs. This amendment is not being published as a proposal for public comment inasmuch as its primary purpose is to make FmHA regulations comply with Pub. L. 94–375, the Housing Authorization Act of 1976, and, therefore, such publication is unnecessary. Any delay in publishing, as a final rule, the additional communities eligible for rural housing program benefits, would delay eligible applicants from obtaining those benefits and would be contrary to the public interest.

However, interested persons are invited to submit written comments, suggestions or objections regarding this amendment and revision within 30 days after date of publication in the FEDERAL REGISTER as if this document were published for proposed rulemaking, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch, Farmers Home Administration, during regular business hours (8:15 a.m.–4:45 p.m.).

Accordingly, § 1822.3(c)(2) and Exhibit G of Subpart A of Part 1822 as amended and revised, are set forth below:

§ 1822.3 Definitions.

* * * * *

(c) * * *

* * * * *

(2) Any town, village, city, or place, including the immediately adjacent densely settled area, which is not part of or associated with an urban area, and

(i) Has a population not in excess of 10,000 if it is rural in character; or

(ii) Has a population in excess of 10,000 but not in excess of 20,000; and

(A) Is not contained within a Standard Metropolitan Statistical Area (SMSA); and

(B) Has a serious lack of mortgage credit for low- and moderate-income families as determined by the Secretary of Agriculture and the Secretary of Housing and Urban Development.

* * * * *

EXHIBIT G—RURAL AREAS OF 10,000–20,000 POPULATION

I. *Purpose.* This Exhibit lists those areas which are eligible for Farmers Home Administration (FmHA) housing programs as rural areas which have populations in excess of 10,000 but not in excess of 20,000, are not part of or associated with an urban area, are not located in a Standard Metropolitan Statistical Area (SMSA), and have a serious lack of mortgage credit for low-and moderate-income families as determined by the Secretary of Agriculture and the Secretary of Housing and Urban Development. State Directors are authorized to identify by list and maps the eligible areas in appropriate State Supplements issued in accordance with § 1822.3(c)(9) of this regulation.

II. *Eligible Areas.* The areas eligible for FmHA assistance by State are:

Alabama: Alexander City, Andalusia, Cullman, Enterprise, Ozark, Sylacauga, Talladega, Troy, Tuskegee.

Arizona: Casa Grande, Douglas, Prescott.

Arkansas: Camden, Conway, Forrest City, Magnolia, Paragould, Russellville, Searcy, Stuttgart.

California: Arcata, Atwater, Brawley, Calexico, Hanford, Madera, Oroville, Paradise, Porterville, Tulare, Ukiah.
Colorado: Cannon City-East Cannon City, Durango, Sterling.
Connecticut: Willimantic.
Florida: Lake City, Leesburg, Naples, Port Charlotte, Palatka, Vero Beach-Gifford.
Georgia: Americus, Bainbridge, Carrollton, Cartersville, Cordele, Douglas, Dublin-East Dublin, Moultrie, Newnan, Statesboro, Thomaston, Tifton.
Idaho: Caldwell, Coeur D'Alene, Moscow.
Illinois: Canton, Centralia, Charleston, Dixon, Effingham, Herrin-Energy, Lincoln, Marion, Monmouth, Mt. Vernon, Ottawa, Streator, Taylorville.
Indiana: Bedford, Connersville, Crawfordsville, Frankfort, Goshen, Huntington, Logansport, Madison, Peru, Seymour, Wabash, Washington.
Iowa: Boone, Fort Madison, Keokuk, Newton, Oskaloosa, Spencer.
Kansas: Arkansas City, Atchison, Chanute, Coffeyville, Hays, Independence, Liberal, McPherson, Newton, Ottawa, Parsons, Winfield.
Kentucky: Danville, Elizabethtown, Glasgow, Madisonville, Mayfield, Middlesboro, Murray, Richmond, Somerset.
Louisiana: Abbeville, Bastrop, Bogalusa, Crowley, Euncie, Hammond, Jennings, Morgan City, Natchitoches, Ruston, Thibodaux.
Maine: Brunswick, Sanford.
Maryland: Cambridge.
Massachusetts: Greenfield, North Adams, Hyannis-West Yarmouth-South Yarmouth-West Dennis-Dennis Port-South Dennis.
Michigan: Alma, Alpena, Big Rapids, Cadillac, Escanaba, Iron Mountain-Kingsford, Niles, Sault Sainte Marie, Traverse City.
Minnesota: Albert Lea, Bemidji, Brainerd, Breckenridge, Cloquet, Fairmont, Fairbault, Fergus Falls, Marshall, New Ulm, Northfield, Owatonna, Red Wing, Willmar, Worthington.
Mississippi: Brookhaven, Canton, Cleveland, Corinth, McComb, Oxford, Picayune, Starkville, Yazoo City.
Missouri: Carthage, Fulton, Hannibal, Kennett, Kirksville, Marshall, Mexico, Moberly, Poplar Bluff, Rolia, Sikeston, Warrensburg.
Montana: Anaconda, Havre, Kalispell.
Nebraska: Beatrice, Columbus, Kearney, Norfolk, Scottsbluff.
New Hampshire: Berlin, Laconia, Rochester.
New Mexico: Artesia, Gallup, Las Vegas, Los Alamos, Portales.
New York: Batavia, Corning, Cortland, Glens Falls, Hornell, Massena, Ogdensburg, Olean, Oneonta.
North Carolina: Albemarle, Cherry Point, Eden, Elizabeth City, Henderson, Lenoir, Lumberton, Mt. Airy-Toast-Bannertown, Morganton, New Bern, Reidsville, Roanoke Rapids-Gaston, Sanford, Shelby, Tarboro-Princeville.
North Dakota: Dickinson, Jamestown, Wahpeton, Williston.
Ohio: Bellefontaine, Bucyrus, Cambridge, Conneaut, Coshocton, Defiance, Fostoria, Fremont, Galion, Greenville, Mount Vernon, Norwalk, Salem, Sidney, Washington Court House, Wilmington, Wooster.
Oklahoma: Ada, Chickasha, Duncan, Durant, McAlester, Miami, Okmulgee.
Oregon: Ashland, Astoria, Band, Grants Pass, La Grande, McMinnville, Pendleton, Roseburg, The Dalles.
Pennsylvania: Athens-Sayre-South Waverly, Berwick, Bloomsburg, Bradford, Chambersburg, Clearfield, Connellsville, DuBois, Elwood City, Franklin, Greenville, Grove City, Indiana, Lewistown, Lock Haven, Meadville, Oil City, Sunbury, Warren, Waynesboro.
Puerto Rico: Coamo, Fajardo, Humancao, Manati, San German, Utuado, Vega Baja, Yauco.
South Carolina: Beaufort, Gaffney, Georgetown, Lancaster, Laurens, Union.
South Dakota: Brookings, Huron, Mitchell, Watertown, Yankton.
Tennessee: Athens, Cookeville, Dyersburg, Greenville, Humboldt, McMinnville, Shelbyville, Tullahoma, Union City.
Texas: Bay City, Beeville, Borger, Brownwood, Eagle Pass, Gainesville, Henderson, Hereford, Kerrville, Lamesa, Levelland, Mineral Wells, Palestine, Pecos, Port Lavaca, Synder, Sulphur Springs, Sweetwater, Uvalde, Vernon.
Utah: Brigham City.
Vermont: Essex Junction, Montpelier-Barre.
Virgin Islands: Charlotte Amalie.
Virginia: Covington, Harrisonburg, Martinsville, Pulaski, Radford, Waynesboro, Winchester.
Washington: Centralia, Ellensburg, Moses Lake, Oak Harbor, Port Angeles.
West Virginia: Martinsburg.
Wisconsin: Beaver Dam, Marshfield, Menomonie, Watertown, Whitewater.
Wyoming: Sheridan.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Effective date. This amendment and revision shall become effective on September 28, 1976.

Dated: September 26, 1976.

WILLIAM H. WALKER, III,
Assistant Secretary for Rural Development, Department of Agriculture.

[FR Doc.76-28310 Filed 9-27-76;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Area Quarantined

This amendment quarantines a portion of Webster County in Nebraska because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the area quarantined.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies is hereby amended as follows:

In § 73.1a, new paragraph (b) relating to the State of Nebraska is added to read:

§ 73.1a Notice of quarantine.

* * * * *

(b) Notice is hereby given that cattle in a certain portion of the State of Nebraska are affected with scabies, a contagious, infectious, and communicable disease; and therefore, the following area in such State is hereby quarantined because of said disease:

That portion of Webster County comprised of sec. 7, R. 10 W., T. 2 N. in Cowles Precinct.

* * * * *

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464; 28477; 38 FR 19141.)

Effective date. The foregoing amendment shall become effective September 22, 1976.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 22nd day of September 1976.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.76-28352 Filed 9-27-76;8:45 am]

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Noncertified Areas in § 78.22 because it has been determined that they no longer come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Cape Girardeau and Putnam Counties in Missouri.

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m):

Bledsoe, Hamblen, Lincoln, Monroe, Van Buren, and Washington Counties in Tennessee.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified brucellosis-free areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.*

Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama. Barbour, Cherokee, Clay, Cleburne, Dale, Etowah, Geneva, Henry, Lee, Russell.

Arkansas. Baxter, Benton, Boone, Bradley, Calhoun, Carroll, Clay, Cleveland, Columbia, Conway, Dallas, Drew, Fulton, Garland, Grant, Greene, Jackson, Johnson, Lafayette, Madison, Marion, Monroe, Montgomery, Newton, Ouachita, Perry, Pike, Polk, Prairie, Searcy, Sharp, Stone, Union, Woodruff, Yell.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld.

Florida. Baker, Bay, Brevard, Calhoun, Dade, Dixie, Escambia, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Pasco, Santa Rosa, Seminole, Sumter, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, Dawson, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Henry, Jeff Davis, Johnson, Jones, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Schley, Screven, Stephens, Taylor, Telfair, Toombs, Treutlen, Twiggs, Upson, Ware, Washington, Wayne, Wheeler, White, Wilkinson.

Idaho. Adams, Bear Lake, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Caribou, Cassia, Clearwater, Custer, Fremont, Idaho, Jerome, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Oneida, Owyhee, Payette, Power, Shoshone, Teton, Valley, Washington, Yellowstone National Park.

Illinois. Adams, Alexander, Bond, Boone, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, Massac, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, White, Whiteside, Will, Winnebago, Woodford.

Iowa. Adair, Adams, Audubon, Black Hawk, Boone, Bremer, Buena Vista, Butler, Calhoun, Cass, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Davis, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Plymouth, Scott, Shelby, Tama, Taylor, Union, Van Buren, Wapello, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Comanche, Doniphan, Ford, Gove, Haskell, Hodgeman, Johnson, Lane, Marshall, Pawnee, Phillips, Riley, Scott, Trego, Washington.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Jackson, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Carter, Dallas, Douglas, Dunklin, Franklin, Gasconade, Hickory, Iron, Jackson, Laclede, Lewis, Marion, Miller, Monteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

New Mexico. Bernalillo, Catron, Colfax, Dona Ana, Grant, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Sante Fe, Sierra, Socorro, Taos, Torrance.

South Dakota. Aurora, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Cheatham, Claiborne, Davidson, Decatur, Dickson, Fentress, Grainger, Greene, Grundy, Hancock, Hardin, Houston, Jackson, Jefferson, Johnson, Knox, Lake, Meigs, Morgan, Polk, Roane, Robertson, Rutherford, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Warren, White.

Texas. Brewster, Childress, Comal, Crane, Ector, Gray, Hansford, Hartley, Hemphill, Irion, Jeff Davis, Kerr, Kimble, Lipscomb, Llano, Loving, Mason, Newton, Pecos, Reagan, Reeves, Roberts, Sterling, Terrell, Val Verde, Ward, Winkler.

Utah. Beaver, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Camuy, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guayanilla, Gurabo, Hormigueros, Humacao, Isabela, Jayuya, Juana Diaz, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Quebradillas, Rincon, Rio Grande, Rio Pieddras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, San Sebastian, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Villalba, Yabucoa, Yauco.

§ 78.21 Modified certified brucellosis areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.*

Alaska, Louisiana, Nebraska, Oklahoma.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Chilton, Choctaw, Clarke, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Escambia, Fayette, Franklin, Greene, Hale, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Chicot, Clark, Cleburne, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Hempstead, Hot Spring, Howard, Independence, Izard, Jefferson, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, Nevada, Phillips, Poinsett, Pope, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White.

Colorado. Kiowa, Mesa, Pueblo, Yuma.

Florida. Alachua, Bradford, Broward, Charlotte, Citrus, Clay, Collier, Columbia, De Soto, Duval, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Okeechobee, Osceola, Palm Beach, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Piecre, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Ada, Bannock, Bingham, Bonneville, Butte, Clark, Elmore, Franklin, Gem, Gooding, Jefferson, Lincoln, Madison, Minidoka, Twin Falls.

Illinois. Brown, Effingham, Hardin, Pike, Pope, Wayne, Williamson.

Iowa. Allamakee, Appanoose, Benton, Buchanan, Carroll, Cedar, Cerro Gordo, Crawford, Dallas, Decatur, Floyd, Guthrie, Harrison, Linn, Monona, Monroe, Poweshiek, Ringold, Sac, Sioux, Story, Warren, Wayne.

Kansas. Allen, Anderson, Atchison, Barber, Barton, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Cowley, Crawford, Decatur, Dickinson, Douglas, Edwards, Elk, Ellis, Ellsworth, Finney, Franklin, Geary, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Harvey, Jackson, Jefferson, Jewell, Kearny, Kingman, Kiowa, Labette, Leavenworth, Lincoln, Linn, Logan, Lyon, Marion, McPherson, Meade, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osage, Osborne, Ottawa, Potta-

watomie, Pratt, Rawlins, Reno, Republic, Rice, Rooks, Rush, Russell, Saline, Sedgwick, Seward, Shawnee, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Wabaunsee, Wallace, Wichita, Wilson, Woodson, Wyandotte.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forest, Franklin, George, Greene Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Carroll, Cass, Cedar, Charlton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Daviess, De Kalb, Dent, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Jasper, Jefferson, Johnson, Knox, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, McDonald, Mercer, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

New Mexico. Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Union, Valencia.

South Dakota. Beadle, Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, DeKalb, Dyer, Fayette, Franklin, Gibson, Giles, Hamblen, Hamilton, Hardeman, Hawkins, Haywood, Henderson, Henry, Hickman, Humphreys, Lauderdale, Lawrence, Lewis, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Perry, Pickett, Putnam, Rhea, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Van Buren, Washington, Wayne, Weakley, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickons, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Presidio, Rains, Randall, Real, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Yoakum, Young, Zapata, Zavala.

Utah. Box Elder, Cache.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Carolina, Guaynabo, Hatillo, Juncos, Las Piedras, Naguabo.

§ 78.22 Noncertified areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

(b) *Specific Counties Within States.*

Missouri. Cape Girardeau, Putnam.

Puerto Rico. Vieques.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

Effective date. The foregoing amendments shall become effective September 28, 1976.

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 22d day of September 1976.

J. M. HEJL,
Deputy Administrator,
Veterinary Services.

[FR Doc.76-28353 Filed 9-27-76;8:45 am]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER A—PROCEDURE AND RULES OF PRACTICE

PART 309—PUBLISHED AND UNPUBLISHED RECORDS AND INFORMATION

Delegation of Authority to Deny Requests for Records

On March 6, 1975, the Board of Directors of the Federal Deposit Insurance Corporation adopted amendments to Part 309 of the Corporation's rules and regulations (12 CFR Part 309), which prescribes the Corporation's procedures for making information available to the public, to conform that part to amendments to the "Freedom of Information Act" (5 U.S.C. 552) enacted by the Act of November 21, 1974 (Pub. L. No. 93–502; 88 Stat. 1561–1564).

Among other things, the March 6, 1975 amendments to Part 309 provided that denials of requests for records of the Corporation could be made only by the Chairman of the Corporation or a person specifically acting for the Chairman. The Board of Directors of the Corporation has now determined that, in the interest of administrative efficieney, authority to deny a request for records of the Corporation should generally be delegated to the Executive Secretary or his designee.

Accordingly, the Board of Directors hereby amends the third and fourth sentences of § 309.1(b)(1) of the Corporation's rules and regulations (12 CFR 309.1(b)(1)) to read as follows: "The Executive Secretary will in turn forward a request for records to the head of the Division or Office which would reasonably be expected to have custody of such records, for action on the request. A request for records may generally be denied only by the Executive Secretary or his designee, except that a request for records not responded to within 10 business days following its receipt by the Office of the Executive Secretary—by notice to the requester either granting the request, denying the request, or extending the time limit for making a determination on the request—shall, if the requester chooses to treat such delay in response as a denial, be deemed to have been denied by the head of the Division or Office to which the request was referred for action."

The provisions of section 553 of title 5, United States Code, and of §§ 302.1, 302.2, and 302.5 of the Corporation's rules and regulations (12 CFR 302.1, 302.2, and 302.5) with respect to notice, public participation, and deferred effective date were not followed in connection with this amendment since it constitutes a rule of internal Corporation practice and procedure and is not substantive in nature.

Effective date. This amendment shall become effective on September 28, 1976.

By order of the Board of Directors, September 22, 1976.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.76-28289 Filed 9-27-76;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER I—BUREAU OF THE CENSUS, DEPARTMENT OF COMMERCE

PART 30—FOREIGN TRADE STATISTICS

Deletion of References to Shipper's Export Declaration Requirements for Shipments to American Samoa

The following amendments are made to the regulations published in the FEDERAL REGISTER on March 3, 1976 (41 FR 9134). In accordance with administrative procedure, 5 U.S.C. 553, notice and hearing on these amendments are unnecessary because the amendments are ones which relieve restrictions.

Section 30.1 of the Foreign Trade Statistics Regulations was amended to delete the requirement for filing Shipper's Export Declarations for shipments from the U.S. and Puerto Rico to American Samoa by notice appearing in the FEDERAL REGISTER of July 16, 1976. The amendments set forth below simply delete references elsewhere in the Foreign Trade Statistics Regulations to Shipper's Export Declaration requirements for shipments to American Samoa and are therefore companion to the amendment published in the FEDERAL REGISTER on July 16, 1976.

These regulations are issued under the authority of Title 13, United States Code, Section 302; and 5 U.S.C. 301; Reorganization Plan No. 5 of 1950, Department of Commerce Organization Order No. 35-4A, January 1, 1972, 37 FR 3461.

Effective date: These amendments to the Foreign Trade Statistics Regulations are effective on September 28, 1976.

§ 30.1 [Amended]

1. Footnote 1 to § 30.1 is amended by deleting the words "American Samoa and" so that as amended, footnote 1 now reads:

[1] Shipper's Export Declarations are not required for shipments from the United States or Puerto Rico to the United States Possessions, except to the Virgin Islands of the United States, or from a U.S. Possession destined to the United States, Puerto Rico, or another U.S. Possession.

2. Section 30.20(a) is hereby amended by deleting the words "to American Samoa or" so that as amended § 30.20(a) now reads:

§ 30.20 General statement of requirement for the filing of manifests and Shipper's Export Declarations by carriers.

(a) Carriers transporting merchandise from the United States, Puerto Rico, or U.S. Possessions to foreign countries; from the United States or Puerto Rico to the Virgin Islands of the United States; or between Puerto Rico and the United States; shall not be granted clearance, where clearance is required, and shall not depart, where clearance is not required, until manifests (for vessels, aircraft, and rail carriers) and Shipper's Export Declarations have been filed with the Customs Director as specified below, except as provided in § 30.24. Where for reasons beyond the control of the exporting carrier, a given declaration (or declarations) has not been received prior to exportation or departure, and the merchandise has been laden, such carrier shall not as a result of this circumstance be required to offload the merchandise, or to delay its clearance (where clearance is required) or departure (if clearance is not required). However, the provisions of § 30.24 remain applicable.

* * * * * *

3. Section 30.24(a)(1) is hereby amended by deleting the words "American Samoa or," so that as amended § 30.24(a)(1) now reads:

§ 30.24 Clearance or departure of carriers under bond on incomplete manifest or Shipper's export declarations.

(a) * * *

(1) For shipments aboard a U.S. flag carrier between the United States and Puerto Rico, or from the United States or Puerto Rico to the Virgin Islands of the United States, the condition of the bond shall be that a complete manifest (where a manifest is required) and all required Shipper's Export Declarations shall be filed by the carrier not later than the seventh business day after departure.

* * * * * *

4. Section 30.40 is hereby amended by deleting the words "American Samoa," so that as amended § 30.40 now reads:

§ 30.40 Single declaration for multiple consignees.

As a further exception to the requirements of § 30.6, shipper's are authorized, subject to the approval of the Customs Director, to file one Shipper's Export Declaration (in duplicate) for all shipments, other than those made to U.S. Government agencies, offices, establishments, or representatives of any of these, which are laden on one vessel or aircraft and destined to go to one port in Puerto Rico, the Virgin Islands of the United States, or the Canal Zone. For such shipments no consignee information needs to be furnished whether such shipments are made to one or several consignees.

5. Section 30.55(h) is hereby amended by deleting the words "American Samoa and" so that as amended § 30.55(h) now reads:

§ 30.55 Miscellaneous exemptions.

* * * * * *

(h) Shipments (except shipments requiring a validated export license) between the United States and Puerto Rico, to the Virgin Islands of the United States, and to all countries except countries included in country groups S, W, Y, and Z, as defined in the Export Administration Regulations of the Office of Export Administration (15 CFR Parts 368-399),[2] where the value of the commodities classified under a single Schedule B number and shipped on the same exporting carrier from one exporter to one importer is $250 or under: Provided, however, that this exemption shall be conditioned upon the filing of such reports as the Bureau of the Census shall periodically require to compile statistics on $250-and-under shipments.

VINCENT P. BARABBA,
Director, Bureau of the Census.

I concur: September 7, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-28306 Filed 9-27-76;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Rel. Nos. 33-5743, 34-12815, AS-197]

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Increased Disclosure by Life Insurance Companies and Related Holding Companies; Interim Financial Reporting

The Securities and Exchange Commission today adopted amendments of Rule 3-16 of Regulation S-X (17 CFR 210.3-16) and Rules 13a-13 and 15d-13 under the Securities Exchange Act of 1934 (17 CFR 240.13a-13 and 240.15d-13) to require increased disclosure of interim financial data by life insurance companies and related holding companies.

A. GENERAL STATEMENT

On September 10, 1975, the Commission issued Accounting Series Release No. 177 (40 FR 46107) requiring increased disclosure of quarterly data on Form 10-Q (17 CFR 249.308a) by all registrants then reporting on Forms 7-Q (17 CFR 249.307a) and 10-Q and disclosure of selected quarterly data in a footnote to the financial statements by certain registrants whose stock is actively traded and who meet either of the size tests set forth in the release.

Prior to issuing Accounting Series Release No. 177, the Commission considered comments from several registrant life insurance companies and life insurance holding companies requesting that the life insurance industry be exempt from the Regulation S-X (17 CFR Part 210) amendment requiring quarterly data in footnotes to financial statements. These companies indicated that they presently do not prepare quarterly statements in accordance with generally accepted accounting principles (GAAP)

but would be required to do so to conform to Rule 3-16(t) of Regulation S-X (17 CFR 210.3-16(t)). The Commission decided to consider this matter separately and did not fully address the applicability to insurance companies of the amendments to Regulation S-X (17 CFR Part 210) and Form 10-Q in Accounting Series Release No. 177.

In Securities Act Release No. 5689 (41 FR 13626) issued March 15, 1976, the Commission proposed for comment amendments to Regulation S-X (17 CFR Part 210) and Rules 13a-13 and 15d-13 (17 CFR 240.13a-13 and 240.15d-13) under the Securities Exchange Act of 1934 which would require life insurance companies and holding companies having only life insurance subsidiaries to file quarterly reports on Form 10-Q and would require disclosure of selected quarterly financial data in notes to financial statements of registrant insurance companies. These proposals were designed to provide investors in life insurance companies with the same quarterly financial data required from the majority of other publicly traded companies. Twenty-two letters of comments have been received in response to these proposals. The Commission has given careful consideration to all comments and has now determined to adopt the amendments as changed, with a delayed implementation for certain companies which have less actively traded stock.

ADOPTION OF AMENDMENTS TO EXCHANGE ACT RULES 13a-13 AND 15d-13

When Form 10-Q was adopted in 1970 to require summarized quarterly reporting throughout the year, it exempted life insurance companies and holding companies having only life insurance subsidiaries from filing summarized financial information during interim periods because of the difficulty these companies had in determining quarterly results. This decision was based primarily on the assertion that the majority of companies in this industry had neither the data processing capability nor the actuarial information necessary to compute deferred acquisition costs and reserve valuations at interim dates.

The Commission now understands that a majority of life insurance companies are preparing or are capable of preparing quarterly financial statements on a GAAP basis. Thus, most life insurance companies apparently have overcome the estimation and data processing problems related to determination of reserves and deferred acquisition costs.

Several commentators argued that quarterly reporting by life insurance companies was unnecessary due to the highly regulated nature of the industry and their stated belief that there were no significant quarter-to-quarter changes in operations due to the longer operating cycles and purported lack of volatility in the industry. The Commission, however, has concluded that although life insurance companies are highly regulated, such regulation varies substantially from state to state and is primarily for the protection of policyowners.

The Commission anticipated and several respondents confirmed that some life insurance companies do not presently have established systems necessary to comply with these new requirements. Comments were received which indicated that the costs of establishing such systems would be burdensome, particularly to smaller companies. Suggestions were also made that smaller companies be exempt from the Form 10-Q reporting requirement. The Commission recognizes that the costs of complying with these new requirements may be relatively a greater burden to smaller companies.

Recognizing that some life insurers do not presently prepare quarterly financial information, the Commission believes that the quarterly reporting responsibilities imposed by these amendments should first be applied to those life insurance companies whose activities are most closely followed by analysts and investors. At the same time and taking into account the lead time and start-up requirements for those companies not currently preparing quarterly financial information on a GAAP basis, the Commission has decided to defer the effective date of these amendments until 1978 for life insurance companies whose shares are not actively traded. In addition, the Commission notes that its Advisory Committee on Corporate Disclosure is reviewing the overall question of the reporting responsibilities of smaller companies. The results of their work are anticipated in mid-1977 and could possibly impact the filing requirements of many smaller companies, including small public life insurance companies. Accordingly, the Commission will give notice no later than September 30, 1977, as to whether or not there will be any further delay of the effective date of these amendments or any change in these amendments with respect to those life insurance companies whose shares are not actively traded.

ADOPTION OF AMENDMENTS TO REGULATION S-X

The Commission believes that all insurance companies who are subject to the reporting requirements of section 15(d) of the Exchange Act who meet certain size tests and whose shares are actively traded also should be subject to the reporting requirement of Rule 3-16(t) of Regulation S-X (17 CFR 210.3-16(t)). Accordingly, it has adopted an amendment to Rule 3-16(t) (§ 210.3-16(t)) to require disclosure of selected quarterly data in notes to financial statements of such registrants.

TECHNICAL AMENDMENT

A technical amendment of Rule 3-16 (t) (§ 210.3-16(t)) is also being made which provides an exception for companies which do not "meet the requirements for continued inclusion on the list of OTC margin stocks set forth in § 220.8 (i) of Regulation T (12 CFR 220.8(i)) of the Board of Governors of the Federal Reserve System." Certain of the requirements set forth in § 220.8(i) require determinations by the Board of Governors; however, the Commission has been informed that the Board does not make the determinations referred to in § 220.8 (i) unless the company is presently included on the list of OTC margin stocks. Accordingly, the Commission is amending Rule 3-16(t) (§ 210.3-16(t)) by adopting its own objective criteria in lieu of the Board's requirements previously incorporated by reference. The criteria adopted parallel the criteria specified in § 220.8(i) with certain minor changes necessary to allow the criteria to be considered independently. Because of the technical nature of this amendment, the Commission does not believe that a public comment period is necessary.

EFFECTIVE DATE OF AMENDMENTS TO FORM 10-Q QUARTERLY REPORTING REQUIREMENTS

Because neither quarterly reporting on Form 10-Q nor including quarterly data in annual financial statements has previously been required for life insurance companies and because the Commission recognizes that establishing systems necessary to comply with these requirements may take time to achieve, it is only requiring the filing of Form 10-Q or the inclusion of quarterly data in annual financial statements for fiscal years beginning after December 25, 1976. Comparative quarterly data will not be required for quarterly periods beginning prior to that date.

Additionally, for those life insurance companies that do not meet the "actively traded" test specified in subsection (1)(i)(B) of Rule 3-16(t) (§ 210.3-16(t)), these requirements, including comparative data, are deferred until fiscal quarters in fiscal years beginning after December 25, 1977. Earlier implementation of these requirements by registrants is encouraged.

Commission action. The Commission hereby amends §§ 210.3-16(t) and 240.-13a-13 and 240.15d-13, Title 17, Chapter II, Code of Federal Regulations, as given below:

Part 210 (Regulation S-X) is amended by revision of subparagraph (1)(i) and insertion of the words "Second test" in subparagraph (1)(ii) of § 210.3-16(t).

§ 210.3-16 General notes to financial statements. (See Release No. AS-1.)

* * * * *

(t) *Disclosure of selected quarterly financial data in notes to financial statements.*—(1) *Exemption.* This rule shall not apply to any registrant that does not meet both of the following two tests:

(i) *First test.* The registrant: (A) Has securities registered pursuant to section 12(b) of the Securities Exchange Act of 1934 (other than mutual life insurance companies); or

(B) Is an insurance company that is subject to the reporting requirements of section 15(d) of that Act and has securities which also meet the tests set forth in (C)(*1*) and (C)(2) below; or

(C) Has securities registered pursuant to section 12(g) of that Act which also

(*1*) Are quoted on the National Association of Securities Dealers Automated Quotation System, and

(2) Meet the following criteria:

(*i*) Three or more dealers stand willing to, and do in fact, make a market in such stock including making regularly published bona fide bids and offers for such stock for their own accounts; or the stock is registered on a securities exchange that is exempted by the Commission from registration as a national securities exchange pursuant to section 5 of the Securities Exchange Act of 1934.

(*a*) For purposes of this subsection, the insertion of quotations into the National Association of Securities Dealers Automated Quotation System by three or more dealers on at least 10 business days during the six month period immediately preceding the fiscal year for which the financial statements are required shall satisfy the requirement that three dealers be making a market.

(*ii*) There continue to be 800 or more holders of record, as defined in Rule 12g5–1 (§ 240.12g5–1) under the Exchange Act, of the stock who are not officers, directors, or beneficial owners of 10 percent or more of the stock.

(*iii*) The issuer continues to be a U.S. corporation.

(*iv*) There are 300,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 percent of the stock.

(*v*) In addition, the issuer shall meet two of the three following requirements:

(*a*) The shares described in subsection (d) continue to have a market value of at least $2.5 million.

(*b*) The minimum representative bid price of such stock is at least $5 per share.

(*c*) The issuer continues to have at least $2.5 million of capital, surplus, and undivided profits.

Instructions. 1. The computation required by (*v*)(*a*) and (*v*)(*b*) shall be based on the average of the closing representative bid prices as reported by NASDAQ for the 20 business days immediately preceding the fiscal year for which the financial statements are required.

2. The computation required by (*v*)(*c*) shall be as at the last business day of the fiscal year immediately preceding the fiscal year for which the financial statements are required.

(ii) *Second test.* * * *

* * * * *

Part 240 is amended by revision of paragraphs (b) (3) and (4) of § 240.13a–13 and paragraphs (b) (3) and (4) of § 240.15d–13.

§ 240.13a–13 Quarterly reports on Form 10–Q (§ 249.308 of this chapter).

* * * * *

(b) * * *

(3) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 25, 1978, if they do not meet the tests specified in paragraph (t)(1)(i)(B) of § 210.3–16; or

(4) Mutual life insurance companies;

* * * * *

§ 240.15d–13 Quarterly reports on Form 10–Q (§ 249.308a of this chapter).

* * * * *

(b) * * *

(3) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 25, 1978, if they do not meet the tests specified in subparagraph (1)(i)(B) of § 210.3–16(t); or

(4) Mutual life insurance companies;

* * * * *

These amendments are adopted pursuant to authority in sections 5, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933 and Sections 12, 13, 15(d) and 23(a) (15 U.S.C. 78*l*, 78m, 78o(d), 78w) of the Securities Exchange Act of 1934. Pursuant to section 23(a)(2) of the Exchange Act the Commission has considered the impact of these proposals on competition and has concluded that, to the extent the amendments impose burdens on competition, such burdens are necessary and appropriate in furtherance of the purposes of the securities laws.

The technical amendment in subsections (1)(i)(C) (*1*) and (2) of Rule 3–16 (t) of Regulation S–X (17 CFR 210.3–16(t)) shall be effective for all fiscal periods ending subsequent to December 25, 1976.

The amendments in subsection (1)(i)(B) of Rule 3–16(t) of Regulation S–X (17 CFR 210.3–16(t)) relating to insurance companies will be effective for all fiscal years beginning subsequent to December 25, 1976, but disclosure of comparative quarterly data shall not be required for quarters beginning prior to that date.

The amendments of Rules 13a–13 and 15d–13 (17 CFR 240.13a–13 and 240.15d–13) will be effective, except for companies not meeting the tests specified in subsection (1)(i)(B) of Rule 3–16(t) (§ 210.3–16(t)), for reports filed for quarterly periods in fiscal years beginning after December 25, 1976, but disclosure of comparative data shall not be required for interim periods beginning prior to that date. For those companies not meeting the tests specified in subsection (1)(i)(B) of Rule 3–16(t) (§ 210.3–16(t)), the amendments will be effective for quarters in fiscal years beginning after December 25, 1977, but disclosure of comparative data shall not be required for interim periods beginning prior to that date.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 20, 1976.

[FR Doc.76–28253 Filed 9–27–76;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T. D. 76–280]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Special Tonnage Tax and Light Money, Philippines

The Department of State advised the Department of the Treasury on August 4, 1976, that the Department of State has obtained from the Government of the Philippines satisfactory evidence that no discriminating duties of tonnage or impost are imposed or levied in ports of the Philippines upon vessels wholly belonging to citizens of the United States, or upon the produce, manufacturers, or merchandise imported into the Philippines in such vessels from the United States or from any foreign country.

Therefore, by virtue of the authority vested in the President by section 4228 of the Revised Statutes, as amended (46 U.S.C. 141), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951, as amended by Executive Order No. 10882, July 18, 1960 (3 CFR, 1959–1963 Comp., Ch. II), and pursuant to the authorization provided by Treasury Department Order No. 190, Rev. 11, (41 FR 20198), I declare that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, so far as respects vessels of the Philippines, and the produce, manufactures, or merchandise imported into the United States in such vessels from the Philippines or from any other foreign country. This suspension and discontinuance shall take effect from August 4, 1976, and shall continue for so long as the reciprocal exemption of vessels wholly belonging to citizens of the United States and their cargoes shall be continued and no longer.

In accordance with this declaration, § 4.22 of the Customs Regulations (19 CFR 4.22) is amended by the insertion of "Philippines" in appropriate alphabetical sequence in the list of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

In addition, in order to conform provisions of the Customs Regulations with the suspension and discontinuance of the foreign discriminating duties of tonnage and impost within the United States with respect to vessels of the Philippines, the table in § 4.20(c) of the Customs Regulations (19 CFR 4.20(c)), which sets forth tonnage tax and light money rates, is hereby amended by deleting "Vessels of Philippine registry, owned by citizens of the Philippine Islands" from the column headed "Classes of vessels" and ".02 or .06" from the column headed "Regular tax".

(R.S. 251, as amended, R.S. 4219, as amended, 4225, as amended, 4228, as amended, sec. 3, 23 Stat. 119, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624, 46 U.S.C. 3, 121, 128, 141).)

Since there is a statutory requirement for the suspension of discriminating duties when reciprocity has been established, notice and public procedure under 5 U.S.C. 553 is unnecessary. Inasmuch as the suspension grants an exemption from the payment of duties, there is good cause under 5 U.S.C. 553(d)(1) for making the suspension effective on the earliest date possible.

Dated: September 20, 1976.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.76-28269 Filed 9-27-76;8:45 am]

[T.D. 76-279]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Special Tonnage Tax and Light Money; Change in Names of Certain Countries

Section 4.22 of the Customs Regulations (19 CFR 4.22) lists all of the nations whose vessels are exempted by treaties, Presidential proclamations, or orders of the Secretary of the Treasury from the payment of higher tonnage duties than are applicable to vessels of the United States and from the payment of light money. Included in this list of nations are the Democratic Republic of the Congo, Ceylon, Muscat (Oman), and the United Arab Republic. The Department of State advised the Department of the Treasury on July 27, 1976, that the Democratic Republic of the Congo is now named Zaire, that Ceylon is now named Sri Lanka, and that the United Arab Republic is now the Arab Republic of Egypt. In addition, the Department of State advised that the listing for Muscat (Oman) should be changed to Oman.

Accordingly, to reflect these changes, the list set forth in § 4.22 of the Customs Regulations is amended by deleting "Democratic Republic of the Congo", "Ceylon", "Muscat (Oman)", and "United Arab Republic" therefrom and substituting for them in appropriate alphabetical sequence therein "Zaire", "Sri Lanka", "Oman", and "Arab Republic of Egypt".

(R.S. 251, as amended, R.S. 4219, as amended, 4225, as amended, 4228, as amended, sec. 3, 23 Stat. 119, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624, 46 U.S.C. 3, 121, 128, 141).)

Since this amendment merely reflects the change of names of certain nations already entitled to the suspension of discriminating duties, notice and public procedure is found to be unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. This amendment shall be effective on September 28, 1976.

Dated: September 20, 1976.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.76-28266 Filed 9-27-76;8:45 am]

[T.D. 76-278]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Coastwise Transportation; Republic of Singapore

In accordance with section 27, 41 Stat. 999, as amended (46 U.S.C. 883), the Secretary of State has advised the Secretary of the Treasury on July 23, 1976, that the Republic of Singapore allows privileges reciprocal to those provided for in the sixth proviso of the cited statute with respect to certain articles transported by vessels of the United States. Therefore, corresponding privileges are accorded to vessels of Republic of Singapore registry as of the date of such notification.

These privileges relate to the coastwise transportation, under the conditions specified in the sixth proviso of 46 U.S.C. 883, of empty cargo vans, empty lift vans, empty shipping tanks; equipment for use with those articles; empty barges specifically designed for carriage aboard a vessel; any empty instruments for international traffic exempted from application of the Customs laws by the Secretary of the Treasury pursuant to section 332(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1322(a)); and certain stevedoring equipment and material.

Accordingly, paragraphs (b)(1) and (b)(2) of § 4.93 of the Customs Regulations (19 CFR 4.93(b)(1), (b)(2), are amended by the insertion of "Republic of Singapore" in appropriate alphabetical order in the lists of countries under those paragraphs.

(Sec. 27, 41 Stat. 999, as amended, sec. 14, 67 Stat. 516 (5 U.S.C. 301, 19 U.S.C. 1322(a), 46 U.S.C. 883).)

There is a statutory basis for the described extension of reciprocal privileges, and the amendments recognize an exemption from the coastwise prohibition of section 27, 41 Stat. 999, as amended (46 U.S.C. 883). Therefore, good cause is found for dispensing with notice and public procedure thereon as unnecessary, and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

VERNON D. ACREE,
Commissioner of Customs.

Approved: September 20, 1976.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.76-28268 Filed 9-27-76;8:45 am]

[T.D. 76-277]

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

Specifications for Wire Mesh or Expanded Metal Partitions

On April 2, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 14191) which proposed to amend § 19.1(c) of the Customs Regulations (19 CFR 19.1(c)) to set forth the specifications for wire mesh or expanded metal partitions that may be used to separate the bonded and nonbonded portions of buildings used partly as Customs bonded warehouses.

Section 19.1(c) of the Customs Regulations, which sets forth the specifications for partitions to separate the bonded and nonbonded portions of buildings used partly as Customs bonded warehouses, presently specifies that if the partitions consist of wire mesh or expanded metal panels, the wire shall not be less than No. 6 gauge (.192 inch) with mesh openings not to exceed 2 inches in the larger dimension and panel material shall be riveted or welded into channel-iron or T-iron frames or secured with through hairpin bolts to 2 x 4 inch wood partition framing. It further specifies that wood partitions shall be constructed of not less than 1 inch boards of uniform length between supports, nailed with not less than tenpenny nails to not less than 2 x 4 inch stud framing and, for additional security, held in place by ⅛ x 1 inch metal cover strips. So called poultry wire, wood latice or palings, plasterboard, Beaverboard, or other materials of a light or flimsy nature, or materials of a substantial nature but which are insecurely installed, are not acceptable.

It has been determined that the currently-required No. 6 gauge wire fence fabric is no longer readily obtainable. In order to permit the use of more readily-available No. 9 gauge wire fence fabric, to provide for greater security, and to ensure more uniformity in the construction of partitions within buildings to create Customs bonded warehouses, the proposed amendments to § 19.1(c) of the Customs Regulations set forth new specifications for such partitions. The proposed specifications would permit the use of expanded metal (steel) or chain-link fence fabric of at least 9 gauge (.148 inch) with mesh openings not to exceed 2 inches in the larger dimension. It would also permit partitions of not less than 1 inch wood boards of uniform lengths between supports or of ¾ inch plywood to be erected. The proposal further specified the manner in which the partitions are to be constructed and set forth the specifications for the framing. It further required that gates be equipped with a positive-type latching device with a means to accept a Customs-

approved lock and that they be constructed of materials of sufficient size and strength to preclude any sagging condition. The new standards would be applicable to all partitions constructed, reconstructed, renovated, or otherwise installed or altered 30 days after the date notice of adoption of the proposed amendment is published in the FEDERAL REGISTER.

No written comments were received in response to the notice of proposed rulemaking. However, it has been determined that the security afforded by partitions of steel chain-link fence construction would not be impaired by the use of 2⅞ inch outside diameter (O.D.) galvanized tubular steel corner and gate posts or by the use of 2⅜ inch O.D. galvanized tubular steel intermediate posts, both of which are more readily available than the 3 inch and 2½ inch posts specified in the proposal. Therefore, the specifications for steel chain-link fence applications in § 19.1(c)(2) have been changed to permit the use of the more readily available post sizes. Otherwise, no change in the amendments originally proposed have been made.

Accordingly, the proposed amendments are adopted as set forth below.

Effective date. This amendment shall become effective October 28, 1976.

VERNON D. ACREE,
Commissioner of Customs.

Approved: September 20, 1976.

JERRY THOMAS
Under Secretary of the Treasury.

Paragraph (c) of § 19.1 is amended to read as follows:

19.1 Classes of Customs warehouses.

* * * * *

(c) When parts of buildings are used as Customs bonded warehouses, the bonded and nonbonded portions thereof shall be effectively separated by partitions of substantial materials and construction erected in such a manner as to render it impossible to enter the premises in the absence of the Customs warehouse officer without such violence as to make the entry easy to detect. The partitions may be constructed of raised expanded metal (steel), steel chain-link fence fabric, or wood materials and shall comply with the following specifications:

(1) *Expanded metal.* The expanded metal shall be at least 9 gauge (of a diameter of .148 inches), with mesh openings not to exceed 2 inches in the larger dimension, and shall be welded to corner posts of at least 3 x 3 x 5/16 inch angle iron. The intermediate posts shall be at least 2 x 2 x 3/16 inch angle iron. Top, middle, and bottom rails of at least 2 x 2 x 3/16 inch angle iron are required.

(2) *Steel chain-link fence.* Steel chain-link fence fabric shall be at least 9 gauge (of a diameter of .148 inches) with mesh openings not to exceed 2 inches in the larger dimension. The wire mesh must be installed on a galvanized steel tubular frame consisting of 2⅞ inch outer diameter (O.D.) corner and gate posts, 2⅜ inch O.D. intermediate posts and 1⅝ inch O.D. top, middle, and bottom rails. The posts shall be affixed to the true floor and true ceiling in a manner which precludes their easy removal. The chain-link fabric shall be securely fastened to all corner posts using 3/16 x ¾ inch tension bars and 11 gauge tension bands. There shall be one band for each foot in the height of the fence fabric. The bolts used to affix these bands to the fence shall be bent, peened, welded or altered to preclude the removal of the nut from the bolt. The fabric shall be fastened to the intermediate posts and top, middle, and bottom rails with 9 gauge tie wires, double wrapped, on one foot centers. In those cases where more than one width of fence fabric is required there shall be an overlap of at least one foot.

(3) *Wood.* Wood partitions shall be constructed of not less than 1 inch boards (dressed if desired) of uniform length between supports, nailed with not less than tenpenny nails to not less than 2 x 4 inch stud framing and held in place by ⅛ x 2 inch metal cover-strips secured over the nailed ends, with carriage bolts through the boards and partition framing. Plywood of not less than ¾ inch thickness may be substituted for the 1 inch thick wood boards providing it is erected in the same manner prescribed for the boards.

Gates may be constructed of any of the materials specified for partitions. Depending on their size and swing, the gates shall be constructed in such a manner, and of materials of sufficient strength, to preclude any possible sagging condition. They shall be equipped with a positive-type latching device with provision for accepting a Customs-approved padlock. The specifications set forth in this paragraph shall be applicable to all partitions (including gates) constructed, reconstructed, renovated, or otherwise installed or altered on or after October 28, 1976.

(R.S. 251, as amended, secs. 555, 556, 624, 46 Stat. 743, as amended, 759 (19 U.S.C. 1555, 1556, 1624).)

[FR Doc.76-28267 Filed 9-27-76;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0105]

PART 440—PENICILLIN ANTIBIOTIC DRUGS

Ampicillin and Sterile Sodium Ampicillin; Revision of Potency Calculations

The Food and Drug Administration is amending the potency calculations for ampicillin and sterile ampicillin sodium; effective October 28, 1976.

In a proposal published in the FEDERAL REGISTER of May 12, 1976 (41 FR 19348), the Commissioner of Food and Drugs proposed that the antibiotic drug regulations be amended in §§ 440.5 and 440.9a (21 CFR 440.5 and 440.9a) to require that the potency value for ampicillin and sterile sodium ampicillin be determined on the anhydrous basis.

The Commissioner concluded that for accuracy in determining compliance with the concordance limits specified in the regulations for these antibiotic drugs, the potency value should be calculated on the same anhydrous basis as the value for the ampicillin content. Sixty days were allowed for public comment on the proposal. No comments were received. The Commissioner, therefore, finds that the amendment should be adopted as proposed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 440 is amended as follows:

1. In § 440.5 by revising paragraph (a)(1)(i) to read as follows:

§ 440.5 Ampicillin.

(a) * * *

(1) * * *

(i) It contains not less than 900 micrograms and not more than 1,050 micrograms of ampicillin per milligram on an anhydrous basis.

* * * * *

2. In § 440.9a, paragraph (a)(1)(i) is amended by revising the first sentence to read as follows:

§ 440.9a Sterile sodium ampicillin.

(a) * * *

(1) * * *

(i) Its potency is not less than 845 micrograms and not more than 988 micrograms of ampicillin per milligram on an anhydrous basis. * * *

* * * * *

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357).)

Effective date: This regulation shall become effective October 28, 1976.

Dated: September 21, 1976.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.76-28287 Filed 9-27-76;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7434]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Requirement That Benefits Under a Qualified Plan are not Decreased on Account of Certain Social Security Increases

By a notice of proposed rule making appearing in the FEDERAL REGISTER on October 15, 1975 (40 FR 48361), amendments to the Income Tax Regulations (26 CFR Part 1) were proposed in order to prescribe regulations under section 401(a)(15) of the Internal Revenue Code of 1954, as added by section 1021(e) of the Employee Retirement Income Secu-

rity Act of 1974 (the "Act") (88 Stat. 938).

Section 401(a) of the Internal Revenue Code of 1954 provides certain requirements for qualification of pension, profit-sharing, and stock bonus plans. Under paragraph (15) of section 401(a), as added by the Act, the benefits of a participant in a qualified plan may not be reduced by reason of an increase in benefit levels payable, or in the wage base, under title II of the Social Security Act if the increase takes place after the later of (1) September 2, 1974, or (2) the earlier of the date plan benefits are first received by the participant (or his beneficiary) or the date of the participant's separation from service.

Section 401(a)(15) and the regulations thereunder apply with respect to benefits (1) which are being received under the plan by a participant or beneficiary or (2) to which a participant who is separated from service has nonforfeitable rights.

After consideration of comments submitted in writing and made orally at a public hearing on February 26, 1976, the text of proposed regulations § 1.401 (a)–15 has been revised to clarify the rules set forth therein.

First, paragraph (a), as set forth in the proposed regulations, has been modified to make it clear that this section of the regulations applies only to plans under which determination of benefits is related, in some way, to the wage base or to benefits payable under title II of the Social Security Act.

Second, subparagraph (2)(ii) has been revised to clarify that, in the case where a participant, who has separated from service, subsequently returns and resumes participation in a plan to which section 401(a)(15) applies, a benefit to which such participant has a nonforfeitable right under such plan may not be decreased on account of any social security increases occurring during such separation which would decrease such benefit to a level below the level of benefits to which he would have been entitled had he not returned to service.

Finally, an example has been added to paragraph (c) of the regulations to illustrate that a plan to which section 401(a)(15) of the Code applies satisfies the requirements of that section, where such plan provides that, in the case of a person who retires and who is entitled to receive a deferred vested benefit upon reaching normal retirement age, the Social Security offset is to be computed using a modification of the method described in section 11.012 of Rev. Rul. 71–446, 1971–2 C.B. 187.

The proposed regulations, as revised, supersede temporary income tax regulations § 11.401(a)–15, which was published on October 15, 1975 in the FEDERAL REGISTER (40 FR 48345).

Adoption of amendments to the regulations. On October 15, 1975, notice of proposed rule making with respect to amendments of the Income Tax Regulations (26 CFR Part 1) under section 401(a)(15) of the Internal Revenue Code of 1954, as added by section 1021(e) of the Employee Retirement Income Security Act of 1974 (Pub. L. 93–406, 88 Stat. 938), was published in the FEDERAL REGISTER (40 FR 48361). A public hearing with regard to this notice of proposed rule making was held on February 26, 1976, and after consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, certain revisions to the proposed regulations have been made. Thus, the Income Tax Regulations (26 CFR Part 1) are amended by adding the new section set forth below immediately after § 1.401–14. The regulation set forth below supersedes § 11.401(a)–15 of the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 (26 CFR Part 11).

§ 1.401(a)–15 Requirement that plan benefits are not decreased on account of certain Social Security increases.

(a) *In general.* Under section 401(a)(15), a trust which is part of a plan to which section 411 applies (without regard to section 411(e)(2)) is not qualified under section 401 unless, under the plan of which such trust is a part:

(1) *Benefit being received by participant or beneficiary.* A benefit (including a death or disability benefit) being received under the plan by a participant or beneficiary (other than a participant to whom subpargaraph (2)(ii) of this paragraph applies, or a beneficiary of such a participant) is not decreased by reason of any post-separation social security benefit increase effective after the later of—

(i) September 2, 1974, or

(ii) The date of first receipt of any retirement benefit, death benefit, or disability benefit under the plan by the participant or by a beneficiary of the participant (whichever receipt occurs first).

(2) *Benefit to which participant separated from service has nonforfeitable right.* In the case of a benefit to which a participant has a nonforfeitable right under such plan—

(i) If such participant is separated from service and does not subsequently return to service and resume participation in the plan, such benefit is not decreased by reason of any post-separation social security benefit increase effective after the later of September 2, 1974, or separation from service, or

(ii) If such participant is separated from service and subsequently returns to service and resumes participation in the plan, such benefit is not decreased by reason of any post-separation social security benefit increase effective after September 2, 1974, which occurs during separation from service and which would decrease such benefit to a level below the level of benefits to which he would have been entitled had he not returned to service after his separation.

(b) *Post-separation social security benefit increase.* For purposes of this section, the term "post-separation social security benefit increase" means, with respect to a participant or a beneficiary of the participant, an increase in a benefit level or wage base under title II of the Social Security Act (whether such increase is a result of an amendment of such title II or is a result of the application of the provisions of such title II) occurring after the earlier of such participant's separation from service or commencement of benefits under the plan.

(c) *Illustrations.* The provisions of paragraphs (a) and (b) of this section may be illustrated by the following examples:

Example (1). A plan to which section 401(a)(15) applies provides an annual benefit at the normal retirement age, 65, in the form of a stated benefit formula amount less a specified percentage of the primary insurance amount payable under title II of the Social Security Act. The plan provides no early retirement benefits. In the case of a participant who separates from service before age 65 with a nonforfeitable right to a benefit under the plan, the plan defines the primary insurance amount as the amount which the participant is entitled to receive under title II of the Social Security Act at age 65, multiplied by the ratio of the number of years of service with the employer to the number of years of service the participant would have had if he had worked for the employer until age 65. The plan does not satisfy the requirements of section 401(a)(15), because social security increases that occur after a participant's separation from service will reduce the benefit the participant will receive under the plan.

Example (2). A plan to which section 401(a)(15) applies provides an annual benefit at the normal retirement age, 65, in the form of a stated benefit formula amount less a specified percentage of the primary insurance amount payable under title II of the Social Security Act. The plan provides no early retirement benefits. In the case of a participant who separates from service before age 65 with a nonforfeitable right to a benefit under the plan, the plan defines the primary insurance amount as the amount which the participant is entitled to receive under title II of the Social Security Act at age 65 based upon the assumption that he will continue to receive until reaching age 65 compensation which would be treated as wages for purposes of the Social Security Act at the same rate as he received such compensation at the time he separated from service, but determined without regard to any post-separation social security benefit increase, multiplied by the ratio of the number of years of service with the employer to the number of years of service the participant would have had if he had worked for the employer until age 65. The plan satisfies the requirements of section 401(a)(15), because social security increases that occur after a participant's separation from service will not reduce the benefit the participant will receive under the plan.

(d) *Other Federal or State laws.* To the extent applicable, the rules discussed in this section will govern classifications under a plan supplementing the benefits provided by other Federal or State laws, such as the Railroad Retirement Act of 1937. See section 206(b) of the Employee Retirement Income Security Act of 1974 (Public Law 93–406, 88 Stat. 864).

(e) *Effect on prior law.* Nothing in this section shall be construed as amending or modifying the rules applicable to post-separation social security increases prior

to September 2, 1974. See paragraph (e) of § 1.401–3.

(f) *Effective date.* Section 401(a)(15) and this section shall apply to a plan only with respect to plan years to which section 411 (relating to minimum vesting standards) is applicable to the plan without regard to section 411(e)(2).

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: September 21, 1976.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

[FR Doc.76-28231 Filed 9-27-76;8:45 am]

[T.D. 7436]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Commencement of Benefits Under Qualified Trusts

By a notice of proposed rulemaking appearing in the FEDERAL REGISTER on October 8, 1975 (40 FR 47138), amendments to the Income Tax Regulations (26 CFR Part 1) under section 401(a)(14) of the Internal Revenue Code of 1954, as added by section 1021(d) of the Employee Retirement Income Security Act of 1974 (the "Act") (Pub. L. 93–406, 88 Stat. 937) were proposed in order to provide rules for the commencement of benefits under qualified trusts.

Section 401(a)(14) provides two qualification requirements concerning the commencement of benefit payments. First, unless the participant elects otherwise, the payment of benefits must commence not later than 60 days after the close of the plan year in which the latest of the following events occurs: (1) The participant's attainment of age 65 (or any earlier normal retirement age under the plan), (2) The lapse of ten years since the participant commenced participation in the plan, or (3) The termination of the participant's service with the employer.

Second: If the plan permits an employee who has not separated from the service to receive an early retirement benefit if he meets certain age and service requirements, section 401(a)(14) requires that an employee must be entitled to the payment of certain benefits upon satisfaction of the age requirements if, after satisfying the service requirement, he separated from service with a nonforfeitable right to an accrued benefit. Such benefits must not be less than those to which the separated participant would have been entitled under the plan at the normal retirement age, actuarially reduced according to the regulations.

A public hearing regarding the proposed regulations was held on February 26, 1976, and, after consideration of comments made orally at this hearing and those submitted in writing, the text of the proposed regulations has been revised in several respects.

The text of paragraphs (a) and (c) of the final regulations provide that the provisions of these paragraphs do not preclude a plan from requiring that a participant file a claim for benefits before payment of benefits will commence. However, in the event that regulations relating to plan recordkeeping requirements are issued by the Department of Labor, this provision will be reconsidered.

Paragraph (c) (relating to the special early retirement rule) has been revised to provide that it is permissible, under the terms of a plan, to impose reasonable conditions to payment of early retirement benefits so long as such conditions are equally applicable to participants who separate from service when eligible for an early retirement benefit and participants who separate from service earlier. This provision is intended to cover the imposition of a requirement that application be made for benefits as well as the imposition of other conditions that are non-discriminatory.

These regulations supersede temporary income tax regulations § 11.401(a)–14, published on October 8, 1975 in the FEDERAL REGISTER (40 FR 47107).

ADOPTION OF AMENDMENTS TO THE REGULATIONS

On October 8, 1975, notice of proposed rulemaking with respect to amendments of the Income Tax Regulations (26 CFR Part 1) under section 401(a)(14) of the Internal Revenue Code of 1954, as added by section 1021(d) of the Employee Retirement Income Security Act of 1974 (Pub. L. 93–406, 88 Stat. 937), was published in the FEDERAL REGISTER (40 FR 47138). A public hearing regarding this notice of proposed rulemaking was held on February 26, 1976, and, after consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, certain revisions to the regulations as proposed have been made. Thus, the Income Tax Regulations (26 CFR Part 1) are amended by adding the new section, set forth below, immediately before § 1.401(a)–15. This new section supersedes § 11.401(a)–14(14) of the Temporary Income Tax Regulations Under the Employee Retirement Income Security Act of 1974 (26 CFR Part 11).

§ 1.401(a)–14 Commencement of benefits under qualified trusts.

(a) *In general.* Under section 401(a)(14), a trust to which section 411 applies (without regard to section 411(e)(2)) is not qualified under section 401 unless the plan of which such trust is a part provides that the payment of benefits under the plan to the participant will begin not later than the 60th day after the close of the plan year in which the latest of the following events occurs:

(1) The attainment by the participant of age 65, or, if earlier, the normal retirement age specified under the plan,

(2) The 10th anniversary of the date on which the participant commenced participation in the plan,

(3) The termination of the participant's service with the employer, or

(4) The date specified in an election made pursuant to paragraph (b) of this section.

Notwithstanding the preceding sentence, a plan may require that a participant file a claim for benefits before payment of benefits will commence.

(b) *Election of later date*—(1) *General rule.* A plan may permit a participant to elect that the payment to him of any benefit under a plan will commence at a date later than the dates specified under paragraphs (a)(1), (2), and (3) of this section.

(2) *Manner of election.* A plan permitting an election under this paragraph shall require that such election must be made by submitting to the plan administrator a written statement, signed by the participant, which describes the benefit and the date on which the payment of such benefit shall commence.

(3) *Restriction.* An election may not be made pursuant to a plan provision permitted by this paragraph if the exercise of such election will cause benefits payable under the plan with respect to the participant in the event of his death to be more than "incidental" within the meaning of paragraph (b)(1)(i) of § 1.401–1.

(c) *Special early retirement rule*—(1) *Separation prior to early retirement age.* A trust forming part of a plan which provides for the payment of an early retirement benefit is not qualified under section 401 unless, upon satisfaction of the age requirement for such early retirement benefit, a participant who:

(i) Satisfied the service requirements for such early retirement benefit, but

(ii) Separated from service (with any nonforfeitable right to an accrued benefit) before satisfying such age requirement,

is entitled to receive not less than the reduced normal retirement benefit described in paragraph (c)(2) of this section. A plan may establish reasonable conditions for payments of early retirement benefits (including for example, a requirement that a claim for benefits be made) if the conditions are equally applicable to participants who separate from service when eligible for an early retirement benefit and participants who separate from service earlier.

(2) *Reduced normal retirement benefit.* For purposes of this section, the reduced normal retirement benefit is the benefit to which the participant would have been entitled under the plan at normal retirement age, rdeuced in accordance with reasonable actuarial assumptions.

(3) *Separation prior to effective date of this section.* The provisions of this paragraph shall not apply in the case of a plan participant who separates from service before attainment of early retirement age and prior to the effective date of this section set forth in paragraph (e) of this section.

(4) *Illustration.* The provisions of this paragraph may be illustrated by the following example:

Example. The X Corporation Defined Benefit Plan provides that a normal retirement

benefit will be payable to a participant upon attainment of age 65. The plan also provides that an actuarially reduced retirement benefit will be payable, upon application, to any participant who has completed 10 years of service with the X Corporation and attained age 60. When he is 55 years of age and has completed 10 years of service with X Corporation, A, a participant in the plan, leaves the service of X Corporation and does not return. The plan will not be qualified under section 401 unless, upon attainment of age 60 and application for benefits, A is entitled to receive a reduced normal retirement benefit described in subparagraph (2) of this paragraph.

(d) *Retroactive payment rule.* If the amount of the payment required to commence on the date determined under this section cannot be ascertained by such date, or if it is not possible to make such payment on such date because the plan administrator has been unable to locate the participant after making reasonable efforts to do so, a payment retroactive to such date may be made no later than 60 days after the earliest date on which the amount of such payment can be ascertained under the plan or the date on which the participant is located (whichever is applicable).

(e) *Effective date.* This section shall apply to a plan for those plan years to which section 411 of the Code applies without regard to section 411(e)(2).

(Secs. 401(a)(14), 7805, Internal Revenue Code of 1954 (88 Stat. 937, 68A Stat. 917; 26 U.S.C. 401(a)(14), 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: September 23, 1976.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

[FR Doc.76-28370 Filed 9-23-76;4:42 pm]

[T.D. 7437]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Certain Retroactive Amendments of Employee Plans

By a notice of proposed rule making appearing in the FEDERAL REGISTER on October 7, 1975 (40 FR 46314), amendments to the Income Tax Regulations (26 CFR Part 1) under section 401(b) of the Internal Revenue Code of 1954, as amended by section 1023 of the Employee Retirement Income Security Act of 1974 (the "Act") (Pub. L. 93-406, 88 Stat. 943), were proposed in order to provide rules for certain retroactive amendments of employee plans.

Section 401(b), as amended by the Act, provides that certain plan amendments adopted to correct certain "disqualifying provisions" of plans may be given retroactive effect for purposes of determining the qualification of the plan under section 401(a), if such amendments are adopted by the due date (including extensions) of the employer's income tax return for the taxable year in which the plan or amendment was adopted, or a later time designated by the Secretary or his delegate.

A public hearing regarding the proposed regulations was held on February 26, 1976, and, after consideration of comments made orally at this hearing and those submitted in writing, the text of the proposed regulations has been revised in several respects.

Paragraph (a) of § 1.401(b)-1 requires a curative retroactive amendment under which all provisions of the plan which are necessary to satisfy all requirements of sections 401(a), 403(a), or 405(a) are in effect for all purposes for the whole of the remedial amendment period. Under some facts and circumstances, it may not be possible to amend a plan retroactively so that all provisions of the plan which are necessary to satisfy the requirements of section 401(a) are in fact made effective for the whole remedial amendment period. If it is not possible, the requirements of this section will not be satisfied even if the employer adopts a retroactive plan amendment which, in form, appears to satisfy such requirements. Paragraph (a) also provides that section 401(b) may not be used as the basis for retroactively creating a plan for a taxable year of an employer prior to the taxable year in which the plan was adopted.

Paragraph (c) of § 1.401(b)-1 has been modified to provide a special rule for determining the end of the remedial amendment period for plans maintained by more than one employer. In such a case, the remedial amendment period ends on the last day of the 10th month following the end of the plan year containing the later of the date the remedial amendment period begins or the date the disqualifying provision became effective. Paragraph (c) has also been modified to provide that in all cases, rather than only in the case of a disqualifying provision arising because of the qualification changes brought about by the Act, the remedial amendment period does not end before the last day of the plan year, if that date is later than the time for filing the employer's tax return.

Paragraph (c) has also been modified to provide generally that remedial amendment periods arising on or after September 2, 1974, the date of enactment of the Act, do not end before December 31, 1976. This provision is applicable only with respect to plans subject to the vesting requirements of section 411, and is therefore not applicable to plans described in section 411(e)(1), such as governmental plans and church plans which do not elect under Code section 410(d) to have various ERISA provisions apply.

Special rules have been provided in cases in which an employer adopts a master or prototype or district approved pattern plan. In such cases, paragraph (d) of § 1.401(b)-1 provides that the employer is generally allowed six months following action by the Service on the opinion letter request by the master or prototype plan sponsor or notification letter request by the sponsor of a pattern plan.

Paragraph (d) has also been modified with respect to an employer's request for a determination letter regarding the qualified status of the plan. In that case, paragraph (d)(3) of § 1.401(b)-1 provides that the remedial amendment period shall be extended until the expiration of 91 days following final resolution of the request, whether or not the request was made by the end of the employer's taxable year. In the case of employers who have received a final determination prior to the time this regulation is published, paragraph (d)(4) allows 150 days to prevent undue hardship.

A new provision has been added to paragraph (d) to provide rules with respect to remedial amendment periods which began prior to September 2, 1974. In those cases, in addition to the rules for extension of the remedial amendment period found elsewhere in the section, the remedial period will not end until December 31, 1976, if, while an application for a determination letter is pending, or promptly upon receiving final notification from the Service of defects in the plan, the employer adopted an amendment which would have cured the plan if the new rules of § 1.401(b)-1 had been in effect at that time.

Finally, a new paragraph (e) has been added to provide for an additional extension of the remedial amendment period at the discretion of the Internal Revenue Service. This authority may be exercised in the case of substantial hardship to the employer, or in the best interest of plan participants, and if not adverse to the interests of the Government. The request must be made before the end of the remedial amendment period or at a later time that the Service considers reasonable under the circumstances. The mere absence of final regulations with respect to issues covered under the Special Reliance Procedure announced by the Service in Technical Information Release 1416 on November 5, 1975, and extended by Internal Revenue Service News Release IR-1616 on May 14, 1976, shall not be deemed to satisfy the requirements for a discretionary extension under § 1.401(b)-1(e).

ADOPTION OF AMENDMENTS TO THE REGULATIONS

On October 7, 1975, notice of proposed rule making with respect to amendments of the Income Tax Regulations (26 CFR Part 1) under section 401(b) of the Internal Revenue Code of 1954, as added by section 1023 of the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406, 88 Stat. 943), was published in the FEDERAL REGISTER (40 FR 46314). A public hearing regarding this notice of proposed rulemaking was held on February 26, 1976, and, after consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, certain revisions to the regulations as proposed have been made. Thus, the Income Tax Regulations (26 CFR Part 1) are amended as set forth below.

Section 1.401(b)-1 of these regulations supersedes § 11.401(b)-1 of the Temporary Income Tax Regulations under the

Employee Retirement Income Security Act of 1974 (26 CFR Part 11).

PARAGRAPH 1. Section 1.401–5 is amended by revising the section title and adding at the end thereof the following new sentence:

§ 1.401–5 Period for which requirements of section 401(a)(3), (4), (5), and (6) are applicable with respect to plans put into effect before September 2, 1974.

* * * This section shall not apply to any pension, profit-sharing, stock bonus, or annuity plan put into effect after September 1, 1974, and shall not apply with respect to any disqualifying provision to which § 1.401(b)–1 applies.

PAR. 2. The following new sections are inserted immediately after § 1.401(a)–15:

§ 1.401(b) Statutory provisions; qualified pension, profit-sharing, and stock bonus plans; certain retroactive changes in plan.

Sec. 401. *Qualified pension, profit-sharing, and stock bonus plans.* * * *

(b) *Certain retroactive changes in plan.* A stock bonus, pension, profit-sharing, or annuity plan shall be considered as satisfying the requirements of subsection (a) for the period beginning with the date on which it was put into effect, or for the period beginning with the earlier of the date on which there was adopted or put into effect any amendment which caused the plan to fail to satisfy such requirements, and ending with the time prescribed by law for filing the return of the employer for his taxable year in which such plan or amendment was adopted (including extensions thereof) or such later time as the Secretary or his delegate may designate, if all provisions of the plan which are necessary to satisfy such requirements are in effect by the end of such period and have been made effective for all purposes for the whole of such period.

* * * * *

(Sec. 401(b) as amended by sec. 1023, Employee Retirement Income Security Act 1974 (Pub. Law 93–406, 88 Stat. 943).)

§ 1.401(b)–1 Certain retroactive changes in plan.

(a) *General rule.* Under section 401(b) a stock bonus, pension, profit-sharing, annuity, or bond purchase plan which does not satisfy the requirements of section 401(a) on any day solely as a result of a disqualifying provision (as defined in paragraph (b) of this section) shall be considered to have satisfied such requirments on such date if, on or before the last day of the remedial amendment period (as determined under paragraphs (c), (d) and (e) of this section) with respect to such disqualifying provision, all provisions of the plan which are necessary to satisfy all requirements of sections 401(a), 403(a), or 405(a) are in effect and have been made effective for all purposes for the whole of such period. Under some facts and circumstances, it may not be possible to amend a plan retroactively so that all provisions of the plan which are necessary to satisfy the requirements of section 401(a) are in fact made effective for the whole remedial amendment period. If it is not possible, the requirements of this section will not be satisfied even if the employer adopts a retroactive plan amendment which, in form, appears to satisfy such requirements. Section 401(b) does not permit a plan to be made retroactively effective, for qualification purposes, for a taxable year prior to the taxable year of the employer in which the plan was adopted by such employer.

(b) *Disqualifying provisions.* For purposes of this section, with respect to a plan described in paragraph (a) of this section, the term "disqualifying provision" means:

(1) A provision of a new plan, the absence of a provision from a new plan, or an amendment to an existing plan, which causes such plan to fail to satisfy the requirements of the Code applicable to qualification of such plan as of the date such plan or amendment is first made effective, or

(2) A plan provision which results in the failure of the plan to satisfy the qualification requirements of the Code by reason of a change in such requirements effected by the Employee Retirement Income Security Act of 1974 (Pub. L. 93–406, 88 Stat. 829), hereafter referred to as "ERISA". For purposes of this subparagraph, a disqualifying provision includes the absence from a plan of a provision required by such change if the plan was in effect on the date such change became effective with respect to such plan.

(c) *Remedial amendment period.* (1) The remedial amendment period with respect to a disqualifying provision begins:

(i) In the case of a provision of, or absence of a provision from, a new plan, described in paragraph (b)(1) of this section, the date the plan is put into effect,

(ii) In the case of an amendment to an existing plan, described in paragraph (b)(1) of this section, the date the plan amendment is adopted or put into effect (whichever is earlier), or

(iii) In the case of a disqualifying provision described in paragraph (b)(2) of this section, the date on which the change effected by ERISA, described in paragraph (b)(2) of this section, became effective with respect to such plan.

(2) Unless further extended as provided by paragraph (d) of this section, the remedial amendment period ends with the latest of:

(i) In the case of a plan maintained by one employer, the time prescribed by law, including extensions, for filing the income tax return (or partnership return of income) of the employer for the employer's taxable year in which falls the latest of:

(A) The date on which the remedial amendment period begins,

(B) The date on which a plan amendment described in paragraph (b)(1) of this section is adopted, or

(C) The date on which a plan amendment described in paragraph (b)(1) of this section is made effective,

(ii) In the case of a plan maintained by one employer, the last day of the plan year within which falls the latest of:

(A) The date on which the remedial amendment period begins,

(B) The date on which a plan amendment described in paragraph (b)(1) of this section is adopted, or

(C) The date on which a plan amendment described in paragraph (b)(1) of this section is made effective,

(iii) In the case of a plan maintained by more than one employer, the last day of the tenth month following the last day of the plan year in which falls the latest of:

(A) The date on which the remedial amendment period begins,

(B) The date on which a plan amendment described in paragraph (b)(1) of this section is adopted, or

(C) The date of which a plan amendment described in paragraph (b)(1) of this section is made effective, or

(iv) December 31, 1976, but only in the case of a plan to which section 411 (relating to minimum vesting standards) applies without regard to section 411(e)(2), and only in the case of a remedial amendment period which began on or after September 2, 1974.

For purposes of this paragraph (c)(2) of this section a master or prototype plan shall not be considered to be a plan maintained by more than one employer, and whether or not a plan is maintained by more than one employer shall be determined without regard to section 414(b) and (c) except that if a plan is maintained solely by an affiliated group of corporations (within the meaning of section 1504) which files a consolidated income tax return pursuant to section 1501 for a taxable year within which falls the latest of the dates described in paragraph (c)(2)(i) of this section, such plan shall be deemed to be maintained by one employer.

(d) *Extensions of remedial amendment period*—(1) *Opinion letter request by sponsoring organization of master or prototype plan.* In the case of an employer who has adopted a master or prototype plan, a remedial amendment period that began on or after September 2, 1974, shall not end prior to the later of:

(i) June 30, 1977, or

(ii) The last day of the month that is six months after the month in which:

(A) The opinion letter with respect to the request of the sponsoring organization is issued by the Internal Revenue Service,

(B) Such request is withdrawn, or

(C) Such request is otherwise disposed of by the Internal Revenue Service. The rules contained in this subparagraph apply only if the sponsoring organization of such master or prototype plan has, after September 2, 1974, and on or before December 31, 1976, filed a request for an opinion letter with respect to the initial or continuing qualification of the plan (or a trust which is part of the plan). The provisions of this paragraph (d)(1) apply to a master or prototype

plan adopted to replace another plan even though the remedial amendment period applicable to the replaced plan has expired at the time of adoption of the replacement plan.

(2) *Notification letter request by law firm sponsor of district-approved plan.* In the case of an employer who has adopted a pattern plan, a remedial amendment period that began on or after September 2, 1974, shall not end prior to the later of:

(i) June 30, 1977, or

(ii) The last day of the month that is six months after the month in which:

(A) The notification letter with respect to the request of the sponsoring law firm is issued by the Internal Revenue Service,

(B) Such request is withdrawn, or

(C) Such request is otherwise disposed of by the Internal Revenue Service. The rules contained in this subparagraph shall apply only if the sponsoring law firm of such pattern plan has, on or before December 31, 1976, filed a request for a notification letter with the Internal Revenue Service with respect to the initial or continuing qualification of the plan (or a trust which is part of the plan). The provisions of this paragraph (d)(2) apply to a pattern plan adopted to replace another plan even though the remedial amendment period applicable to the replaced plan has expired at the time of the adoption of the replacement plan.

(3) *Determination letter request by employer or plan administrator.* If on or before the end of a remedial amendment period determined without regard to this paragraph (d), or in a case to which paragraph (d)(1) or (2) of this section applies, on or before the 90th day following the later of the dates described in paragraph (d)(1) or (2) of this section, the employer or plan administrator files a request pursuant to § 601.201(o) of this chapter (Statement of Procedural Rules) for a determination letter with respect to the initial or continuing qualification of the plan, or a trust which is part of such plan, such remedial amendment period shall be extended until the expiration of 91 days after:

(i) The date on which notice of the final determination with respect to such request for a determination letter is issued by the Internal Revenue Service, such request is withdrawn, or such request is otherwise finally disposed of by the Internal Revenue Service, or

(ii) If a petition is timely filed with the United States Tax Court for a declaratory judgment under section 7476 with respect to the final determination (or the failure of the Internal Revenue Service to make a final determination) in response to such request, the date on which the decision of the United States Tax Court in such proceeding becomes final.

(4) *Transitional rule.* In the case of a request for a determination letter described in and filed within the time prescribed in paragraph (d)(3) of this section with respect to which a final determination is issued by the Internal Revenue Service on or before September 28, 1976 the remedial amendment period described in paragraph (c) of this section shall not end prior to the expiration of 150 days beginning on the date of such final determination by the Internal Revenue Service.

(5) *Disqualifying provision prior to September 2, 1974.* If the remedial amendment period with respect to a disqualifying provision described in paragraph (b)(1) of this section began prior to September 2, 1974, and the provisions of subdivisions (i), (ii) and (iii) of this subparagraph are satisfied, the remedial amendment period described in paragraph (c) shall not end prior to December 31, 1976. This subparagraph shall apply only if—

(i) A request pursuant to § 601.201 of this chapter for a determination letter with respect to the initial or continuing qualification of the plan (or a trust which is part of the plan) was filed not later than the later of:

(A) The time prescribed by law, including extensions, for filing the income tax return (or partnership return of income) of the employer for the employer's taxable year in which falls the date on which the remedial amendment period began, or

(B) The date 6 months after the close of such taxable year,

(ii) The employer, either:

(A) While such request for a determination letter is or was under consideration by the Internal Revenue Service or,

(B) Promptly after the date on which notice of the final determination with respect to such request for a determination letter is issued by the Internal Revenue Service, such request is withdrawn, or such request is otherwise finally disposed of by the Internal Revenue Service, adopts or adopted either a plan amendment retroactive to the date on which the remedial amendment period began, or a prospective plan amendment, and

(iii) The amendment described in paragraph (d)(5)(ii) of this section would have resulted in the plan's satisfying the requirements of section 401(a) of the Code from the beginning of the remedial amendment period to the date such amendment was made if this section had been in effect during such period, and in the case of a prospective amendment, if such amendment had been made retroactive to such beginning date.

(e) *Discretionary extensions.* At his discretion, the Commissioner may extend the remedial amendment period or may allow a particular plan to be amended after the expiration of its remedial amendment period and any applicable extension of such period. In determining whether such an extension will be granted, the Commissioner shall consider, among other factors, whether substantial hardship to the employer would result if such an extension were not granted, whether such an extension is in the best interest of plan participants, and whether the granting of the extension is adverse to the interests of the Government. The mere absence of final regulations with respect to issues covered under the Special Reliance Procedure announced by the Internal Revenue Service in Technical Information Release 1416 on November 5, 1975, and as extended by Internal Revenue Service News Release IR-1616 on May 14, 1976, shall not be deemed to satisfy the criteria of this paragraph. With regard to a particular plan, a request for extension of time pursuant to this paragraph shall be submitted prior to the expiration of the remedial amendment period determined without regard to this paragraph, or within such time thereafter as the Internal Revenue Service may consider reasonable under the circumstances. The request should be submitted to the appropriate District Director, determined under § 601.201(o)(3)(xii) of this chapter (Statement of Procedural Rules). This subparagraph applies to disqualifying provisions that were adopted or became effective prior to September 2, 1974, as well as disqualifying provisions adopted or made effective on or after September 2, 1974.

(Secs. 401(b), 7805, Internal Revenue Code of 1954 (88 Stat. 943, 68A Stat. 917; 26 U.S.C. 401(b), 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: September 23, 1976.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

[FR Doc.76-28371 Filed 9-23-76;4:42 pm]

Title 29—Labor

CHAPTER XXV—OFFICE OF EMPLOYEE BENEFITS SECURITY, DEPARTMENT OF LABOR

SUBCHAPTER C—REPORTING AND DISCLOSURE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Annual Reporting Requirements

Correction

In FR Doc. 76-22440, appearing at page 32522 in the issue for Tuesday, August 3, 1976, in 2520.104-44, appearing at page 32536, paragraph (b)(2), middle column, 18th line, the 5th word which now reads "or", should read "of".

CHAPTER XXVI—PENSION BENEFIT GUARANTY CORPORATION

PART 2602—PAYMENT OF PREMIUMS

Correction

In FR Doc. 76-22678, appearing at page 32740 in the issue for Thursday, August 5, 1976, § 2602.3(d) should read as set forth below:

§ 2602.3 Filing requirement.

* * * * *

(d) No later than the last date prescribed for the payment of premiums for

any plan year beginning on or after September 2, 1977, the plan administrator of each covered plan shall file in accordance with the instructions contained therein the premium declaration form prescribed by this part to enable the PBGC to reconcile the premium payments paid, with the actual premium payment due, for any plan year beginning on or after September 2, 1976.

* * * * *

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of the Virginia Plan

1. *Background.* Part 1902 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) whereby States may submit for approval, under the requirements of that section, plans to assume responsibility for the development and enforcement of State occupational safety and health standards. Virginia initially submitted its State plan under this section to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter Assistant Secretary) on December 18, 1972 and notice of its receipt and availability for public comment was published on April 11, 1973 (38 FR 9194). Virginia has elected to provide for judicial, rather than administrative, review of alleged violations, abatement periods, and proposed penalties. Section 18 of the Act does not require that a State program be identical to the Federal system, but does require that it be "at least as effective as" the Federal administrative system established by Congress for the nationwide program. It is recognized that circumstances in individual States may lead to administrative and enforcement variations from the Federal scheme which, in the interests of permissible flexibility and creativity, should not be foreclosed except on the basis of evaluation of actual operations under the plan. In any event, any such variations are controlled by the "at least as effective as" measure contained in section 18 of the Act. In the meantime, there will be no diminution of Federal enforcement activity in Virginia to assure full employee protection and continuing evaluation under section 18(f) of the Act will finally be determinative of the effectiveness of any variations from the Federal system.

Plan review and a subsequent determination as to effectiveness, required under section 18(c) of the Act and Subpart B of 29 CFR Part 1902, disclosed several reasons for determining that the Virginia plan, as originally submitted, which relied primarily on criminal enforcement procedures, was not "at least as effective" as the Federal civil enforcement scheme. Consequently, the Assistant Secretary initiated formal proceedings in accordance with section 18(d) of the Act and 29 CFR 1902.19(a) to reject the plan. A Notice of the Proposed Rejection and Notice of Hearing was published in the FEDERAL REGISTER (39 FR 24844, August 1, 1974) which notice fully described the ramifications of the State's reliance upon a criminal enforcement process and the Assistant Secretary's conclusions regarding the resulting lack of effectiveness of the Virginia program in comparison to Federal enforcement procedures. Enforcement deficiencies noted included such matters as lack of distinction between serious and non serious violations, resulting in application of the State's criminal penalty provisions to both types of violations; suspension of sentencing in the trial judge's discretion, diluting the application of first instance sanctions in this criminal context; mandatory court appearance of cited employers upon issuance of a summons; higher burden of proof, ("beyond a reasonable doubt"), making successful enforcement by the State more difficult; de novo retrial of violations raising potentially serious problems of delay in abatement; separation of review procedures whereby the Codes Commission decided non-penalty cases and the court determined those involving a penalty; lack of a precedential decisional system in the non-record courts of first instance, and limited provision for reporting decisions in all trial courts; foreclosure of the right of employees to participate as parties; inability of the State to appeal adverse decisions; and defendant's right to request and secure expensive and lengthy jury trials on demand.

Although an opportunity was given for public participation in the rejection proceeding, only representatives of the District of Columbia requested permission to appear, which request was subsequently withdrawn.

a. *The 1975 legislative amendments.*— In view of the complexity of the subject matter involved in the proposed rejection, Requests for Admissions, Interrogatories and Answers to Interrogatories were exchanged between the parties to the proceeding. Before commencement of formal hearing on the proposed rejection, the Virginia General Assembly, in its 1975 regular session, amended section 40.1–49.1 of the Code of Virginia (1950) which serves as the enforcement portion of the enabling legislation. On June 16, 1975 the U.S. Department of Labor filed a motion to dismiss the proposed rejection on the grounds that the amended legislation, which was in the process of being reviewed for possible approval, had rendered moot the proceeding on which the rejection was based. To this end, pursuant to section 18(c) of the Act and 29 CFR 1902.12, the Assistant Secretary published for public comment in the FEDERAL REGISTER (40 FR 25741, June 18, 1975) a notice of Submission of Modifications to Developmental Plan, which recognized that the 1975 amendments appeared substantially to remove the basis for the proposed rejection.

Prior to the date scheduled for argument on whether the proposed rejection proceeding should be dismissed, the Assistant Secretary and the Virginia Commissioner of Labor and Industry agreed upon Consent Findings, confirmed by a subsequent Consent Order, notice of which was published in the FEDERAL REGISTER, (40 FR 50584), to suspend the proposed rejection proceedings pending the outcome of the Virginia amended plan review process. Public comments in response to the June 18, 1975 notice of a modified plan were received from Area 4, United Paper Workers International Union, AFL–CIO. No requests for a public hearing were received.

Based on these comments and the Department of Labor review, it appeared that as a result of the 1975 legislative amendments a number of the significant objections has been satisfactorily resolved. These included conversion of the judicial enforcement processes from criminal to civil and the addition of provisions for employees to participate as parties in the proceedings. However, a number of unresolved issues relating to the effectiveness of the Virginia plan remained. These included the availability under State law of jury trials in such civil law proceedings; mandatory court appearances of cited employers in response to summonses, foreclosing opportunities for swift finality of abatement orders and imposing unnecessary burdens on both State lawyers and employers; and the continuing lack of an adequate decision-reporting system. Accordingly, it was tentatively determined that the Virginia plan still did not provide enforcement procedures "as effective as" their Federal counterpart.

Discussions and meetings between Commonwealth and Federal representatives, however, resulted in various commitments by Virginia in response to the concerns expressed by Federal reviewers. In response to the jury trial issue, it was proposed that occupational safety and health penalty cases be routed through the Virginia chancery courts where a jury is not required under the State constitution. A procedure for employer confession of judgment in place of mandatory court appearances and court-assessed fines was regarded as essential, since otherwise resources which could be utilized in compliance and educational activities would be unnecessarily tied up in pro forma court enforcement proceedings. Additionally, official penalty assessment guidelines available to Commonwealth attorneys and civil judges were deemed necessary to achieve a uniform degree of penalty assessment statewide. It was suggested that a specialized reporting system which would concentrate on decisions under the State program in both the district and circuit courts disposing of cases on questions of fact or law be implemented. This precedential reporting procedure was deemed essential for the orderly development of occupational safety and health law and to enable the Commonwealth to describe and establish the goals and measures of performance and results of the enforcement program required by 29 CFR 1902.3(1).

Since cases would be channelled through the state-court appeal procedure which offered de novo retrials on appeals from the general State courts of first instance, the Assistant Secretary was concerned that possible delays in abatement of hazards resulting from de novo circuit retrial of district court decisions be counteracted. Accordingly, certain assurances were requested from the State which would alleviate these concerns. These included assurances that, absent a court-granted stay, an employer initially found in violation would be required to abate immediately following the district court hearing, and that if an employer-requested stay is obtained, an expedited hearing would be requested by the Commonwealth. Further assurances were required that the Commonwealth's existing procedures for "red-tag" and mandatory issuance of a serious citation and penalty would be appropriately utilized. Likewise, an explanation of the scope of the Commonwealth's imminent danger authority under the amended legislation was necessary.

Review of the 1975 amendments also revealed that sanctions for willful and repeat violations were exclusively criminal in nature, in contrast to comparable Federal civil provisions, and that an additional legislative amendment providing a civil sanction in these areas would be necessary. Further, two legislative additions authorizing criminal penalties for the making of any false statement (see section 17(g) of the Act), and orders protecting trade secrets (see section 15 of the Act) were required.

b. *The 1976 legislative amendments.*—The foregoing legislative proposals and administrative commitments requested by the Assistant Secretary, in conjunction with supplemental assurances dated August 14, 1973 and a memorandum dated September 12, 1973, previously included in the plan, were agreed upon by the parties as acceptable steps toward initial approval of Virginia's State Plan. The Commonwealth affirmatively responded to the problem areas outlined above by correspondence of January 15, 1976 and March 4, 1976 from Edmond M. Boggs, Commissioner of Labor and Industry, to Assistant Secretary Morton Corn, and by enactment of House Bill 309, effective April 9, 1976, wherein each of the legislative concerns expressed by the Assistant Secretary were dealt with by the Commonwealth in a satisfactory manner. Changes included conversion of the judicial forum from law to equity and provisions mandating finality of citation/summons 15 days from date of issuance unless a contest is received.

Further, several issues highlighted for the first time by enactment of the 1975 amendments were resolved affirmatively by the 1976 amendments. These changes included legislative provision for daily penalties for failure to correct a violation in accordance with a final court order, in addition to availability of the contempt process, as well as statutory rather than regulatory provision for employee informational and protective rights regarding toxic substances and harmful physical agents (see section 8 (c)(3) of the Act).

The foregoing describes the principal issues which the Assistant Secretary believed to be presented in his evaluation of the effectiveness of the Virginia Plan. The State formally submitted its revised plan containing the amended enabling legislation to the Assistant Secretary on June 21, 1976. Accordingly, the question of its approval is in issue before him. It has been determined, in view of the availability for public comment of the original notice of submission of the plan (38 FR 9194, April 11, 1973), the proposed Rejection Notice (39 FR 2488, August 1, 1974) and notice of Modifications to Developmental Plan (40 FR 25741, June 18, 1975), as well as legislative hearings on the State and Federal level, that opportunity for further public comment is unnecessary and would be repetitious.

c. *Outline of the enforcement process as presently constituted.*—The plan designates the Virginia Department of Labor and Industry (hereinafter called DLI) as the agency responsible for administering the plan throughout the Commonwealth and the State Health Department as the agency responsible for occupational health considerations. Safety standards will be promulgated by the Safety and Health Codes Commission and enforced by DLI. The Virginia Department of Health will recommend health standards to be adopted by the Safety and Health Codes Commission, inspect for health hazards, and coordinate with DLI in recommending the issuing of citations. The State Fire Marshal will promulgate and by agreement enforce fire safety standards (developmental).

With respect to standards, the State intends to adopt standards identical to those adopted by the U.S. Secretary of Labor except those found in 29 CFR Parts 1915, 1916, 1917 and 1918 (ship repairing, shipbuilding, shipbreaking, and longshoring). The State will retain its existing standards applicable to ionizing radiation. With respect to enforcement section 40.1–49.2 of the Virginia legislation is the Commonwealth's basic enforcement mechanism. If upon inspection a serious violation is believed to exist a citation and summons is issued. This procedure is similar to the Federal OSHA, in which a citation is issued and a penalty is proposed. Non-serious violations call for issuance of only a citation requiring abatement, unless a (discretionary) monetary penalty is proposed in which event a summons is issued. All citations must be issued with reasonable promptness. Willful and repeat violations may alternately be pursued by civil or criminal processes. An employer who has received a citation and summons or only a citation is required to contest the citation and/or summons within 15 days from date of issuance, otherwise it will be deemed a final order. The summons will state the court appearance date and the amount of civil penalty proposed should the employer desire to contest.

The General District Court of the county or city where the violation occurred will be the forum. Should the employer choose not to contest but decide to abate and pay the proposed penalty, confession of judgment and other settlement procedures are available. Employers who desire to contest a citation where no penalty is proposed and employees who desire to contest the abatement period (where in both instances a summons is not normally issued) may notify the Commissioner within 15 days of citation issuance and a summons will issue permitting such contests.

Review from the general district court is to the circuit court, sitting without a jury. As indicated, employees likewise have the right to participate as parties and to appeal decisions adverse to their interests. The plan includes the original enabling legislation enacted in February 1973, and legislative amendments enacted in 1975 and 1976. With the exception of the enforcement provisions and procedures discussed at length elsewhere in this notice, the plan contents are basically similar to those described in the FEDERAL REGISTER notice providing initial Virginia plan submission descriptions. A further description of the plan and the schedule for its development are summarized in a new Subpart EE of 29 CFR Part 1952 appearing below.

2. *Issues.* As a result of our review of the Virginia plan, as amended by the 1975 and 1976 amendments to sections 40.1–22, 40.1–51 and 40.1–49.2 of the Code of Virginia (1950) and incorporating assurances and commitments contained in letters dated January 5, 1976, and March 4, 1976, it has been concluded that the problems which originally were grounds for proposed rejection have been resolved. The analysis which follows will focus on specific problems which, through cooperative responses from representatives of both Federal and State governments, were resolved. Remaining problems in the plan required further clarifications and assurances set forth in paragraph (e) below.

a. *Judicial review.*—The objections to a criminal enforcement scheme set forth in the Notice of Proposed Rejection (39 FR 27844) were substantially removed by the 1975 amendments which converted enforcement proceedings from a criminal to a civil forum. Although the language of the Virginia Constitution does not clearly mandate jury trials where requested for such civil matters, the cases appear to grant that right E.g., "W. S. Forkes & Co. v. Southern Cotton Oil Co." 108 S.E. 21. The Assistant Secretary was accordingly concerned that jury trials may cause, in addition to an increased burden on the court system resulting in loss of expedition, an adverse impact on the uniformity of OSHA on both statewide and national bases. Under OSHA and other State plans an administrative judge expert in safety and health evaluates the evidence and applies complex technical standards, while juries

are largely free to render decisions which differ materially from those decided elsewhere in the State or country and may not treat similarly situated employers equally. Further, the Supreme Court has repeatedly noted that jury trials are "incompatible with the whole concept of administrative adjudication and would substantially interfere with the . . . (agency's) role . . . (because) the concept of expertise on which the administrative agency rests is not consistent with the use . . . of a jury." *Curtis* v. *Loether*, 415 U.S. 189, 194 and n. 8 (1974); *Pernell* v. *Southall Realty*, 416 U.S. 363, 383 (1974).

The Assistant Secretary's decision regarding the inappropriateness of jury trials does not, however, foreclose the use of judicial review of citations and proposed penalties. Although it represents a variation from the Federal administrative hearing and review procedure, civil court review is permitted under 29 CFR 1902.4(c)(xii), which allows a state desiring an 18(b) plan its choice of "administrative or judicial review, with an opportunity for a full hearing on the issues." Under these provisions it is clear that an option to review citation/penalty issuance judicially rather than administratively may be permitted the State, provided basic employer and employee rights are retained and there is no adverse impact on the other indices of effectiveness or the State program's effectiveness. Generally such final effectiveness determinations are appropriately left to evaluations of the State program's actual operations under the two-step approval process created by section 18 of the Act. Under that section's philosophy of using the States as laboratories for experimentation to develop new but equally effective modes of accomplishing job safety and health, the appropriate test at this initial stage is that the plan contains nothing which threatens to block or seriously hamper its potential for "as effective" enforcement. Under this plan as amended, there appears no such threat now.

The 1976 amendments, by providing for enforcement before an equitable tribunal, retain the fact-finding function of a judge while eliminating the intervention of a jury. The Commonwealth's judicial choice, moreover, accords with the essentially equitable scheme which Congress has prescribed for the enforcement of the Act. As presently constituted, an employer or employee who desires to contest has an opportunity for informal review of the alleged violations with the Commissioner, similar to that provided under the Federal program. Citations, abatement dates and proposed penalties are initially contested before a district court judge in the county or city of the alleged violation and are appealable to the circuit court, sitting without a jury.

b. *Finality.*—Under the original legislation, the Commonwealth was forced to prosecute all cases in which a penalty was proposed whether the employer chose to contest or not. The resulting lack of finality of agency action which forced both the State and the employer to appear in court regardless of the latter's wish to default, was addressed by the State and in the Assistant Secretary's view cured in an acceptable manner by both the 1976 amendments and administrative assurances that attach to the plan.

First, the legislation now provides that, similar to the Act's procedures, the citation and/or summons and proposed penalty become final 15 days from date of issuance if no contest is timely received Virginia has also assured that employer confession of judgment procedures will be implemented whereby an employer who chooses not to contest may nevertheless pay the amount demanded by the Commissioner to the clerk of the General District Court, or reach settlement prior to the court appearance date listed on his summons.

c. *Uniform penalty assessments and precedential reporting system.*—Some difficulties under the 1975 amendments remained with respect to imposition of penalties under the State's civil judicial enforcement scheme. While removing the earlier problems of sentence suspension, burden of proof, etc., peculiar to the criminal scheme, the civil system still possessed large potential for non-uniform penalty assessments produced by inherent judicial discretion. This concern was minimized by legislation (40.1–49.2(C)) requiring the court to give due consideration in penalty assessment to criteria basically similar to those employed in section 17(j) of the Federal Act, and by assurances that penalty assessment guidelines will be published in the State's enforcement procedures manual.

As required by 29 CFR 1902.3(1), essential to the continued effectiveness of any enforcement system is the State's ability to set goals by measuring performance output and results. This objective was difficult to achieve under Virginia's original system, which provided for dual review whereby non-penalty cases were channelled through an independent administrative agency, the Safety and Health Codes Commission, and penalty cases were routed through the court system. Problems with this split of authority included lack of coordination between the respective enforcement procedures, and lack of centralization, both of which could lead to unequal enforcement and divergent positions on standards interpretation. This problem is resolved by the 1976 amendments, which provide that all contested cases come before the civil court; the Safety and Health Codes Commission will devote itself exclusively to standards promulgation.

Addressing itself to Federal concern that a precedential reporting system was not provided, the Commonwealth assured that a reporting system will be established in two ways: (1) The safety and health inspector of the DLI will be required to file a report with the Commissioner upon termination of court proceedings and administrative guidelines for case reporting by inspectors will be formulated by the DLI; (2) Section 40.1–49.2(H) requires the court clerk to forward a copy of all final judgments to the DLI where a formal records section will be established. In addition, the Commissioner's representative will request a memorandum opinion by the judge presiding over the enforcement proceedings. All the above reports and opinions will be consolidated, printed and made available annually to the courts, Commonwealth attorneys, and the public.

d. *Prompt abatement.*—Another problem was the effect of de novo review under the plan, which facially entitled an employer found in violation by the district court to appeal involving a new trial in the circuit court. The effect of such an appeal would apparently be to render the prior District court judgment and abatement order non-existent. Absent effective safeguards this procedure could cause serious delay in obtaining abatement. These concerns were addressed by Virginia and the legislation (40.1–49.2(D)) now contains an express provision that appeal from a district court order does not operate to stay that order unless a stay is issued by the Circuit Court to which the order is appealed.

Additionally, the existing "red-tag" procedure, whereby an unsafe machines operation is prohibited unless abatement of the violative condition is assured will be utilized. Virginia also assured that initiation of imminent danger proceedings (40.1–19.2(E)) would also be accompanied by issuance of a mandatory serious violation penalty following the Federal practice, and would be carefully implemented. In the absence of a court-granted stay of abatement the employer would be required to abate immediately under pain of a finding of contempt of court, as well as daily non-abatement penalties.

e. Final evaluation of the amended Virginia plan revealed several further problems which were communicated to the State in a letter dated August 23, 1976, from David H. Rhone, Regional Administrator for Occupational Safety and Health to Edmond M. Boggs, Commissioner, Virginia Department of Labor and Industry. The State responded satisfactorily to each of the National office comments in a letter also dated August 23, 1976, and agreed that various assurances agreed upon on August 23, 1976 and communicated within the August 23, 1976 letter, should become a part of the State plan. Thus, remaining problem areas were resolved. The major assurances agreed upon in this manner are discussed below.

(1) Although failures to post are generally covered by section 40.1–49.2(B) as violations which have a direct and immediate relation to safety and health, no specific mandatory penalty is provided in the Virginia enabling legislation for violations of posting requirements (section 17(i) of the Act.). The State assures that the non-serious violation authority contained in section 40.1–49.2(B) is interpreted to extend to posting violations and as a matter of policy such violations will result in mandatory issuance of a citation and summons.

(2) The State assures that record-keeping and reporting violations will be

subject to discretionary non-serious penalties in a manner at least as effective as the Federal program.

(3) Section 40.1–49.2(C) establishes penalty reduction factors which appear to apply only to serious violations, rather than all civil penalties as in the Federal Act. The State assures that these recognized penalty reduction criteria will also be applied to non-serious and other violations through administrative implementation and will be included in its compliance manual.

(4) The Virginia enabling legislation contains two sections which apparently contradict each other. Section 40.1–6(9) authorizes the Commissioner to grant permanent and temporary variances with appeal to the Codes Commission, but section 40.1–51.4 allows the Codes Commission the authority to grant permanent variances from standards, rules and regulations. From the plan narrative it is apparent that Virginia intends to operate under section 40.1–6(9). Accordingly, Virginia assures that all variances, temporary and permanent, will be granted in accordance with section 40.1–6(9) whereby the Commissioner will be the granting authority and the Codes Commission will serve as the variance appeals body. Virginia also assures that regulations equivalent to 29 CFR Part 1905 regarding temporary and permanent variances will be adopted and that any variances granted will have only future effect. Any difficulties in the operation of these provisions will be evaluated in future monitoring of operations under the plan.

(5) The State's imminent danger provision, Section 40 1–49.2(E) voluntarily provides that in addition to ordering abatement the courts may assess a civil penalty of up to $1,000 where an imminent danger is found. In the Federal program, in addition to injunctive relief, initiation of imminent danger proceedings normally results in issuance of a citation for a serious violation and a mandatory proposed serious penalty. The State reconfirmed that a procedure similar to this Federal procedure will also be implemented. See 2(d), above.

(6) The enabling legislation contains a conflict in its procedures for the handling of employee complaints. Section 40.1–51.2(b) states that a employee complaint "shall cause" an inspection to be made, whereas section 40.1–51.3 authoritizes inspections where there are "reasonable grounds" for believing an unsafe condition exists. The State assures section 40.1–51–2(b) will control and that in all cases the complainant will be notified of the inspection results concerning the complaint.

(7) The Virginia plan contained confusing references as to whether the Commonwealth intends to adopt standards identical to the Federal or improve their existing standards. Virginia assures that it is their intent to adopt by reference standards identical to the Federal as expeditiously as possible with promulgation completed no later than January 1, 1978. Virginia also assures that temporary emergency standards will be promulgated within 30 days of promulgation by OSHA in accordance with Federal regulations.

f. *Resources.*—Although not an issue because no party to this proceeding has raised them, the categories of personnel and funding of a State plan have increasingly become subjects of interest in State plans activity. Accordingly, in view of this recent interest and in order to provide full information to the public, some express discussion of these topics is pertinent at this point.

Essential for the approval of a State plan under section 18 of the Act is that the designated agency or agencies have, or will have, qualified personnel necessary for the enforcement of occupational safety and health standards. 29 CFR 1902.3(h) further defines this criteria as a "sufficient number of adequately trained and qualified personnel necessary for the enforcement of the standards." This concept is not a static one but is posited upon a fundamental concept that as the Federal program changes and becomes more effective, the State will concurrently be required to adjust its program to the changing Federal level of enforcement. See 29 CFR 1902.1 (d), 1902.2(b), 1902.3(h) and (i), 1902.32 (e) *et seq.* Accordingly, the State is required to assure not only that it will continue to maintain a present enforcement program as effective as the Federal, but also that future operations will likewise parallel the Federal program.

The primary test for determining a State's effectiveness is the benchmark concept. This concept, first formulated in OSHA Program Directive 72–26, has been updated and refined utilizing data from computerized analysis of injury incidence rates, industry distribution, Federal average inspection time, and current Federal deployment of personnel. The current benchmark computation projects an acceptable benchmark level of 32 compliance inspectors for Virginia in order to maintain staffing effectiveness. The Commonwealth has given specific assurances that 33 safety and health inspectors will be utilized upon plan approval, an amount in excess of the benchmark level, and 58 by the end of the State's developmental period. There appear to be no factors which would render this facially appropriate enforcement staffing level ineffective by comparison to the Federal effort. See OSHA Program Directive 72–24.

The State has further provided in its plan narrative specific references to the personnel and funding criteria of 29 CFR 1902.3 (h) and (i). This information includes number of personnel and projected budget figures for the Commonwealth's three-year developmental period. The foregoing estimates, in accordance with 29 CFR 1953.2(a), will be subject to change if practical operations prove them insufficient to keep pace with the Federal program. Additionally, Part 1953 Subpart E requires States with approved plans to report to the Assistant Secretary any action not otherwise covered by that Part that would impact on the effectiveness of the State program, and specifically refers to increases, decreases or reassignments of State enforcement personnel (29 CFR 1902.3(i)). The Assistant Secretary's regulations additionally provide extensive review procedures and monitoring which follow initial plan approval to assure that State resources remain adequate.

3. *Recent informal comments.*—Shortly before publication of the approval notice contained herein, the AFL–CIO Standing Committee on Occupational Safety and Health, 815 Sixteenth Street, N.W., Washington, D.C., submitted informal comments, dated September 14, 1976 and received by the Assistant Secretary on September 16, 1976. The comments specifically address the Commonwealth's 1976 amendments to its enabling legislation. These comments have been carefully reviewed, and we have concluded that no modification of the decision herein is warranted on the basis of these comments.

Decision. After careful consideration of the Virginia plan, the plan is hereby approved under section 18 of the Act and 29 CFR Part 1902.

The decision incorporates requirements of the Act and implementing regulations applicable to State plans generally. It also incorporates our intention as to continued Federal enforcement of Federal standards in areas covered by the plan and the State's developmental schedule as set out below. In addition, it incorporates our intention to continue to apply a sliding scale for "as effective" evaluations which will require the State to continue to keep pace with improvements in all aspects of the Federal program. See 29 CFR 1902.3(d)(1), 1902.32 et seq. (40 FR 54780–86).

Pursuant to 29 CFR 1902.20(b)(1)(iii), the present level of Federal enforcement will not be diminished until the Virginia plan has been determined to be operational under 29 CFR 1954.3. Thereafter, Federal enforcement activity will continue to be exercised to the degree necessary to assure occupational safety and health protection to employees in the Commonwealth of Virginia.

Part 1952 is amended by adding a new Subpart EE, effective upon signature, reading as follows:

Subpart EE—Virginia

Sec.
1952.370 Description of the plan.
1952.371 Where the plan may be inspected.
1952.372 Level of Federal enforcement.
1952.373 Developmental schedule.

AUTHORITY: Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667).

Subpart EE—Virginia

§ 1952.370 Description of the plan.

(a) The Virginia Department of Labor and Industry is the agency responsible for administering the plan and the Virginia Department of Health is designated as responsible for occupational health matters. The plan defines

the covered occupational safety and health issues as defined by the Secretary of Labor in 29 CFR 1902.2(c)(1) and all safety and health standards adopted by the Secretary of Labor, except those found in 29 CFR Parts 1915, 1916, 1917, and 1918 (ship repairing, shipbuilding, shipbreaking and longshoring), will be enforced by the State upon approval of the plan by the Assistant Secretary. The State will retain its existing standard applicable to ionizing radiation. New Federal standards will be adopted by the Safety and Health Codes Commission within 6 months after Federal promulgation.

(b)(1) The plan includes enabling legislation passed by the Virginia legislature in February 1973, and amendments thereto enacted in 1975 and 1976. The Commissioner of the Department of Labor and Industry will have authority to enforce and administer laws regarding the safety and health of employees. Safety inspections will be conducted by the Department of Labor and Industry whereas health inspections will be conducted by the Department of Health. The Department of Labor and Industry will issue citations, set abatement dates, and issue summons and/or warrants for a civil district court determination of violations and assessment of proposed penalties for such safety and health violations. Appeals of the district court's determination shall be to the circuit court sitting without a jury. Fire safety inspections and enforcement will be provided by agreement with the State Fire Marshal. The State plan provides for the coverage of all employees including coverage of public employees within the Commonwealth with the exception of maritime workers, employees of the United States, and employees whose working conditions are regulated by Federal agencies other than the U.S. Department of Labor under section 4(b)(1) of the Occupational Safety and Health Act of 1970. The Commissioner is authorized to establish a program applicable to employees of the State and its political subdivisions.

(2) The legislation also insures inspections in response to employee complaints; right of employer and employee representatives to accompany inspectors; notification to employees or their representatives when no compliance action is taken as a result of alleged violations; notification to employees of their protections and obligations; protection of employees against discharge or discrimination in terms and conditions of employment; adequate safeguards to protect trade secrets; prompt notice to employers and employees of alleged violations of standards and abatement requirements; effective sanctions against employers for violations of rules, regulations, standards and orders; employee right of review in the State civil courts and employee participation in this judicial review process. In addition, there is provision for prompt restraint of imminent danger situations by injunction and "red-tag" procedures. The plan also proposes to develop a program to encourage voluntary compliance by employers and employees, including provision for on-site consultation, which program will not detract from its enforcement program.

(c) The plan sets out goals and provides a timetable for bringing it into conformity with Part 1902 of this chapter at the end of three years after commencement of operations under the plan. The plan also includes the State Administrative Process Act. A merit system of personnel administration will be utilized.

(d) The plan includes the following documents as of the date of approval:

(1) The plan document and appendices including revised legislation, submitted June 21, 1976.

(2) Letters from the Department of Labor and Industry dated January 15, March 4, and August 23, 1976, and from the Department of Health dated August 18, 1976.

§ 1952.371 Where the plan may be inspected.

A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room N3112, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, 15220 Gateway Center, 3535 Market Street, Philadelphia, Pennsylvania 19104; Virginia Department of Labor and Industry, Ninth Street Office Building, Richmond, Virginia 23219.

§ 1952.372 Level of Federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) of title 29 of the Code of Federal Regulations, Federal enforcement authority will be exercised in Virginia to the extent necessary to supplement the State's compliance activities and to assure occupational safety and health protection to the employees in the Commonwealth of Virginia.

§ 1952.373 Developmental schedule.

The Virginia plan is developmental. Following is a schedule of major developmental steps:

(a) Standards identical to the Federal standards will be completely adopted by January 1, 1978.

(b) A plan for delegation of authority to the State Fire Marshal for fire standards development and enforcement will be completed by December 31, 1976, with necessary legislative action and program implementation by July 1, 1978.

(c) State poster(s) informing public and private employees of their rights and responsibilities will be developed and distributed within 6 months of plan approval.

(d) A voluntary compliance program (including on-site consultation services) will be initiated within 6 months of plan approval.

(e) Both safety and health compliance programs will be fully staffed by FY 1979.

(f) Both safety and health consultation programs will be fully staffed by FY 1979.

(g) An automated Management Information System, including a court reporting system, will be developed within 6 months of plan approval.

(h) An Administrative Procedures Manual which will contain State regulations on standards promulgation, inspections, citations, proposal of penalties, review procedures, variances, etc., will be developed within 6 months of plan approval.

(i) A Compliance Manual establishing procedures to be used by safety and health inspectors and voluntary compliance personnel will be developed within 6 months of plan approval.

(j) A procedure for incorporating State explosives licensing requirements under the State plan will be developed within 6 months of plan approval.

(k) Job descriptions for both safety and health personnel will be reviewed and revised to accurately reflect job functions within 12 months of plan approval.

(l) The Directors of the Industry and Construction Safety Divisions in the Department of Labor and Industry will be brought under State merit system coverage by January 1, 1977.

(m) An inspection scheduling system will be developed for the health program within 6 months of plan approval and for the safety program within 8 months of plan approval.

(n) A public employee program will be developed and implemented within 6 months of plan approval.

Signed at Washington, D.C., this 23rd day of September 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-28360 Filed 9-27-76;8:45 am]

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Minnesota; Certification of Completion of Developmental Steps

1. *Background.* Subpart D of Part 1902 of Title 29, Code of Federal Regulations (40 FR 54780) sets out procedures under which the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) will make a determination under section 18(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) whether, on the basis of actual operations under a State plan, the criteria of section 18(c) of the Act are being applied under the plan. Such a determination may not be made until at least three years after commencement of operations under the plan and, in the case of a developmental plan, until the State has satisfactorily completed all developmental steps and the Assistant Secretary has had at least one additional year to

evaluate the plan on the basis of actual operations. Upon making a determination under section 18(e) that the requirements of section 18(c) are being applied, Federal enforcement of standards and Federal standards (except with regard to ongoing cases) cease to apply in the State with respect to any occupational safety and health issue covered under the determination.

Section 1902.34 of Subpart D provides that the evaluation of a State's fully operational program preparatory to an 18(e) determination, shall commence upon publication in the FEDERAL REGISTER of a certification that all developmental steps have been completed. Such certification must list the developmental steps, including approved amendments thereto, and the dates their approvals were published in the FEDERAL REGISTER; approved substantive changes in the State plan and dates published in the FEDERAL REGISTER; documentation that the State merit system has been approved and found acceptable; and a description of the occupational safety and health issues covered by the certification. If the Assistant Secretary finds that the State has completed all the developmental steps specified in the plan, he shall give notice of same by publishing the certification in the FEDERAL REGISTER and amend the appropriate Subpart of Part 1952 of this Chapter to reflect this finding.

On June 8, 1973, a notice was published in the FEDERAL REGISTER (38 FR 15076) of the approval of the Minnesota plan as a developmental plan and the adoption of Subpart N of Part 1952 describing the plan and containing the approval decision. During the three year period, ending June 30, 1976, following commencement of State operations (three years from the date of the State's first 23(g) grant award), E. I. Malone, Commissioner, Minnesota Department of Labor and Industry, submitted documentation attesting to the completion of each State developmental commitment for review and approval as provided in 29 CFR Part 1953. Following Department review, opportunity for public comment, and subsequent modification of the State's submissions, as deemed appropriate, the Assistant Secretary has approved the completion of all individual Minnesota developmental steps.

2. *Notice of certification of completion of developmental steps under the Minnesota plan.* In accordance with the provisions of 29 CFR 1902.34, notice is given that the Minnesota occupational safety and health plan is hereby certified, effective September 28th, 1976, as having completed all the developmental steps specified in the plan as approved May 29, 1973, on or before June 30, 1976 (see Subpart C of 29 CFR Part 1952) as follows:

(a) All developmental steps specified in the plan and amendments thereto have been completed.

(1) Retraining of the Minnesota occupational safety and health personnel was accomplished during March–May 1973 as indicated in a supplement submitted by the State on June 30, 1975, and approved by the Assistant Secretary on August 31, 1976 (41 FR 36650);

(2) Training sessions for public employers and employees were held during April–June 1973, as indicated in a supplement submitted by the State on June 30, 1975, and approved by the Assistant Secretary on August 31, 1976 (41 FR 36650);

(3) The Minnesota enabling legislation became effective on August 1, 1973 as indicated in a supplement submitted by the State on June 30, 1975 and approved by the Assistant Secretary on August 31, 1976 (41 FR 36650);

(4) Amendments to the enabling legislation concerning district court relief by the Commissioner of the Department of Labor and Industry on behalf of a complainant, a revision of the definition of a serious violation, posting of penalty and citation notices, providing a copy of a citation and penalty to an employee representative or the next of kin, and providing for the right of employees to contest citations were submitted by the State on September 10, 1975, and were approved by the Assistant Secretary on August 31, 1976 (41 FR 36650);

(5) Regulations concerning variance procedures were implemented in August 1973 and were approved by the Assistant Secretary on August 31, 1976 (41 FR 36650);

(6) The State's management information system was implemented in August 1973, as indicated in a supplement submitted by the State on June 30, 1975, and approved by the Assistant Secretary on August 31, 1976 (41 FR 36650);

(7) Staff increases in the Department of Labor and Industry and the Department of Health for 1973–74 were revised and were approved by the Assistant Secretary on August 31, 1976 (41 FR 36550);

(8) A voluntary compliance program was implemented on January 1, 1975, and was submitted on January 28, 1975, and approved by the Assistant Secretary on April 24, 1975 (40 FR 18995, May 1, 1975);

(9) Coverage and enforcement of standards regarding agriculture became effective in July 1975, as indicated in a supplement submitted by the State on June 30, 1975 and approved by the Assistant Secretary on August 31, 1976 (41 FR 36650);

(10) The State poster notifying public and private employees of their protections and obligations under the Minnesota plan was submitted on January 27, 1975, and approved by the Assistant Secretary on March 7, 1975 (40 FR 13211);

(11) Deletion of the requirement that State agencies have a full-time safety director or a safety committee and replacement of this requirement with the establishment of a liaison within the designated agency responsible for assisting State agencies and political subdivisions was submitted on January 28, 1975, and approved by the Assistant Secretary on April 24, 1975 (40 FR 13211);

(12) The four regional offices were redesignated as area offices with their own supervisors rather than a floating supervisor as indicated in a supplement submitted on January 27, 1975, and approved by the Assistant Secretary on April 24, 1975 (40 FR 13211);

(13) Position descriptions adhering to procedures of the Minnesota Department of Personnel and a revised organization chart were submitted on January 28, 1975, and approved by the Assistant Secretary on April 24, 1975 (40 FR 13211);

(14) A revision of the State's personnel structure changing, among other things, the number of personnel in the consultation program from three to no more than one-fifth of the number of enforcement personnel was submitted on April 28, 1975, and approved by the Assistant Secretary on August 31, 1976 (41 FR 36650);

(15) Revisions to the State's compliance manual, incorporating all State policy directives issued since the original manual was published and reflecting changes in the Federal compliance manual were submitted on May 30, 1975, and were approved by the Assistant Secretary on August 31, 1976 (41 FR 36650);

(16) Occupational safety and health standards identical to the Federal standards have been promulgated and subsequently amended to reflect changes in Federal standards and were approved by the Regional Administrator for Occupational Safety and Health on January 14, 1976 (41 FR 12746, March 26, 1976);

(17) Rules of procedure for the Minnesota Occupational Safety and Health Review Board were submitted on October 21, 1975 and were approved by the Assistant Secretary on August 31, 1976 (41 FR 36650);

(18) Regulations concerning inspections, citations and proposed penalties were submitted on October 21, 1975, and were approved by the Assistant Secretary on August 31, 1976 (41 FR 36650);

(19) A downward projection in the increase of safety and health investigators from 17 to 3 for fiscal year 1976 due to a lesser than anticipated increase in funding by the State legislature was submitted on January 16, 1976, and approved by the Assistant Secretary on August 31, 1976 (41 FR 36650);

(b) The personnel operations of the Minnesota Department of Labor and Industry and the Minnesota Department of Personnel have been found to be in substantial conformity with the Standards for a Merit System of Personnel Administration by the U.S. Civil Service Commission by letter dated February 23, 1976.

(c) This certification covers all occupational safety and health issues covered under the Federal program, with the exception of those working conditions subject to exclusive Federal maritime jurisdiction, and the State program covering State and local government employees.

3. *Location of the plan and its approved supplements for inspection and copying.* A copy of the approved supplements along with the approved plan may

be inspected and copied during normal business at the following locations: Office of the Associate Assistant Secretary of Regional Programs, Occupational Safety and Health Administration, Room N-3608, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of Regional Administrator, Occupational Safety and Health Administration, 230 South Dearborn Street, Chicago, Illinois 60604; State of Minnesota, Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101.

4. *Effect of certification.* The operation of the Minnesota occupational safety and health program will be monitored and evaluated for a period of not less than one year after publication of this certification to determine whether the State program in operation is at least as effective as operations under the Federal program in order to make a determination under section 18(e) of the Act that Federal enforcement authority and standards should cease to apply in issues covered under the plan.

In accordance with 29 CFR 1902.35, Federal enforcement authority under sections 5(a)(2), 8, 9, 10, 13, and 17 of the Act (29 U.S.C. §§ 654(a)(2), 657, 658, 659, 662 and 666) and Federal standards authority under section 6 of the Act (29 U.S.C. 655) will not be relinquished during this evaluation period. The authority of the U.S. Department of Labor will be limited to, among other things: Complaints filed with the U.S. Department of Labor concerning violations of the discrimination provisions of section 11(c) of the Act; enforcement of maritime standards covered by Subpart B of 29 CFR Part 1910 (29 CFR 1910.13 through 1910.16) as they relate to working conditions under the exclusive jurisdiction of the Federal Government on the navigable waters of the United States; enforcement of new Federal standards, such as emergency temporary standards, promulgated under section 6 of the Act where necessary to protect employees until such time as the State shall have promulgated equivalent standards; and investigations and inspections for the purpose of the evaluation of the Minnesota plan under section 18(e) and (f) of the Act.

In accordance with this certification, 29 CFR 1952.204 is hereby amended to reflect the successful completion of the developmental period by changing the title of the section and by adding a paragraph (1) as follows:

§ 1952.204 Completion of developmental steps and certification.

* * * * *

(1) In accordance with § 1902.34 of this chapter, the Minnesota occupational safety and health plan was certified, effective September 28, 1976, as having completed all developmental steps specified in the plan as approved on May 29, 1973, on or before June 30, 1976.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Washington, D.C. this 23rd day of September, 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-28360 Filed 9-27-76;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 50—NATIONAL CAPITAL PARK REGULATIONS

Bicycling, Roller Skating and Coasting Restrictions

A proposal was published at page 11530 of the FEDERAL REGISTER of March 19, 1976, to amend paragraph (a) of § 50.40 of Title 36 of the Code of Federal Regulations. The effect of the amendment is to clarify regulations pertaining to bicycling restrictions due to the extremely heavy and popular usage of bicycles that did not exist when the former regulation was adopted.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. As a result of the comments received, the proposed regulation is adopted with the following change: The restriction on bicycling in § 50.40(a)(2) was revised to eliminate a red light on the rear and retained the use of a red reflector.

This amendment will become effective October 28, 1976.

Paragraph (a) of § 50.40 is revised as set forth below:

§ 50.40 Bicycling, roller skating and coasting restrictions.

(a) Bicycling. Bicycle riding is permitted on all established public roads, parking areas, and on routes designated for their use unless otherwise restricted by posted signs.

(1) Bicycle riders must comply with all applicable traffic regulations. Bicycle riders shall keep well to the side of the road and shall keep the bicycle under complete control at all times. Bicycles shall not be ridden abreast of one another except on roads designated for bicycle use only.

(2) Each bicycle must exhibit a white light in front and a red reflector on the rear during periods of low visibility or during the period between sundown and sunup.

* * * * *

In response to Department of the Interior criteria for determining whether proposed legislation, regulations or rules are "major" and require an inflation impact statement, it is hereby certified that the economic and inflationary impacts of this revised regulation have been carefully evaluated in accordance with Executive Order 11821. The impact will be minor and preparation of an inflation impact statement is not required.

Dated: September 7, 1976.

J. L. DUNNING,
Acting Director,
National Capital Parks.

[FR Doc.76-28312 Filed 9-27-76;8:45 am]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, NATIONAL INSTITUTE OF EDUCATION

PART 1451—BASIC SKILLS RESEARCH GRANTS PROGRAM

Awarding Federal Funds

Under Section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e), a notice of proposed rulemaking which set forth proposed procedural and substantive requirements and criteria governing the submission and review of applications for funds under the Basic Skills Research Grants program was published in the FEDERAL REGISTER on May 5, 1976 (41 FR 18518). Interested persons were invited to submit written comments concerning the proposed rules. Two comments were received. Listed below are the comments received and the response to each, as well as an explanation of certain editorial or technical changes which were made to make these regulations identical with other Institute grant program regulations, wherever possible.

Comment. Section 1451.5(a) as proposed required only the principal investigator to execute the cover page of the grant application. The comment suggested that since many institutions designate a person (other than the principal investigator) to sign grant applications for the institution, the proposed regulation should be revised accordingly to avoid confusion.

Response. Section 1451.7(a) has been amended to require a cover page signed by the principal investigator and, where required by the applicant institution, by an individual authorized to execute grant applications for the institution.

Comment. One comment recommended that the rules be amended to include "technology and education" as an eligible research area. The commenter argued that technological concepts appear to be vehicles whereby individuals become more functionally and technologically literate at the same time. The commenter added that another result of technological concept learning is that it appears to have a positive effect on basic skills development in reading, writing, quantitative manipulation, modeling and decisionmaking.

Response. No change has been made. The intent of the program is to focus research on the five critical areas which were defined. Research of the nature described by the commenter could appropriately be considered under § 1451.5(a)(2), the learning process area, since this

area, as described, permits a wide variety of approaches to investigate both basic and advanced reading skills development processes.

Other changes. A number of editorial and other non-substantive changes were made to achieve uniformity with other NIE program regulations and to clarify the content. These changes are in §§ 1451.1, 1451.2 and 1451.4.

Section 1451.3 is renumbered 1451.5. A new § 1451.3, Definitions, is added to include a definition for "research project." Paragraph (c) of § 1451.3 becomes a separate section (1451.6) entitled "Ineligible projects."

Section 1451.5 is renumbered 1451.7 and the heading changed to "Application requirements."

Section 1451.6 is renumbered 1451.9 and the heading of § 1451.9 is changed from "Review of applications" to "Evaluation criteria."

Section 1451.7 is renumbered 1451.8 and language is added to § 1451.8 to provide a basis for funding for more than one year.

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

It is noted that in publishing these regulations the Institute is not inviting applications in response thereto at this time.

Dated: July 28, 1976.

HAROLD L. HODGKINSON,
Director,
National Institute of Education.

Approved: September 21, 1976.

DAVID MATHEWS,
Secretary of Health,
Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended by adding to Subchapter B of Chapter XIV, a new Part 1451, reading as follows:

PART 1451—BASIC SKILLS RESEARCH GRANTS PROGRAM

Sec.
1451.1 Scope.
1451.2 Purpose.
1451.3 Definitions.
1451.4 Applicant eligibility.
1451.5 Eligible research projects.
1451.6 Ineligible projects.
1451.7 Application requirements.
1451.8 Project duration and budget.
1451.9 Evaluation criteria.

AUTHORITY: Sec. 405 of the General Education Provision Act, as amended (20 U.S.C. 1221e).

§ 1451.1 Scope.

(a) This part establishes procedural and substantive requirements and criteria governing the submission and review of applications for funds under the Basic Skills Research Grants program, conducted by the National Institute of Education with funds appropriated pursuant to Section 405 of the General Education Provisions Act.

(b) Projects funded under this part shall be administered in accordance with applicable provisions of subchapter A of this chapter (General Provisions for NIE grants relating to fiscal, administrative, and other matters), except to the extent that such provisions are inconsistent with, or expressly made inapplicable by, the provisions in this part.

§ 1451.2 Purpose.

The purpose of the Basic Skills Research Grants Program is to further the goal of providing American educators with the tools necessary to make further progress in helping all individuals to acquire those skills necessary for full and productive participation in our society. The Basic Skills Research Grants Program will do this by supporting field initiated studies in the substantive areas described in § 1451.5.

§ 1451.3 Definitions.

As used in this part, "Research project" means a study designed to increase or synthesize basic knowledge about processes or conditions relevant to basic skills development; or to provide answers to research problems which can be utilized in program development or for making policy decisions relating to basic skills development.

§ 1451.4 Applicant eligibility.

(a) Applications will be considered under this part only if submitted in response to specific notices in the FEDERAL REGISTER to be issued by the Director.

(b) Colleges, universities, state and local education agencies, and other public or private agencies, organizations, groups or individuals are eligible to apply. Applications from for-profit organizations shall be considered as unsolicited proposals and, if successful, will be awarded contracts rather than grants. Applications from for-profit organizations shall be submitted in accordance with criteria specified in this part and in HEW Procurement Regulations, Subpart 3–4.52 (41 CFR Part 3–4).

§ 1451.5 Eligible research projects.

(a) *Eligible research areas.* Projects funded under this part must involve research in one of the following substantive areas:

(1) *Teaching.* Analysis of the effectiveness of elementary school teaching acts, taking into account the context in which they occur.

(2) *Learning.* Investigation of one or more of the following:

(i) processes underlying comprehension in early reading;

(ii) the cognitive processes underlying comprehension in skilled reading and the development of these processes;

(iii) the structure and use of written and spoken language.

(4) *Design and analysis problems of educational research and evaluation.* Investigation of methodological issues in one or more of the following: (i) the design and analysis of non-experimental research; (ii) the design and analysis of longitudinal research; (iii) the use of randomized field experiments in educational research; and (iv) problems in the analysis of qualitative data.

(5) *Law and education.* Investigation of one or more of the following, as they relate to educational quality: (i) the role of courts and legislatures in making educational policy; (ii) the use of scientific information by courts and legislatures in resolving education problems; and/or (iii) the impact of education-related judicial and legislative decisions on educational practice.

(b) *Eligible research processes.* Projects which involve research in one of the substantive areas described in paragraph (a) of this section may be carried out using any research process other than those specified in § 1451.6.

§ 1451.6 Ineligible projects.

No awards will be made for development, dissemination, demonstrations, or program operations. Examples of ineligible projects include:

(a) Operation of educational programs which are being carried out in a variety of settings, including schools, postsecondary institutions, states, etc.

(b) Improvement of educational programs through the implementation of new or improved procedures, techniques, materials, or equipment.

(c) Course development through the production of new curricula or the imthe preparation of new instructional materials or the modification of those already in existence.

(d) Development or adaptation in an operational setting of any new or improved procedures, techniques, materials, or equipment.

(e) Demonstration projects which show, exhibit, describe, or explain to others, either in person or through various other communications media, the procedures, techniques and materials which must be employed in the execution of a new or modified instructional task or educational program.

(f) Development of new tests or other instruments.

(g) Evaluation of an existing program, curriculum, practice, or piece of equipment.

§ 1451.7 Application requirements.

Applications for grants under this part must include:

(a) A cover page signed by the principal investigator, and, where required by the applicant institution, by an individual authorized to execute grant applica-

tions for the institution, indicating (1) that the application is submitted to the Basic Skills Research Grants Program of the National Institute of Education: (2) the title of the study; (3) the substantive area, as described in § 1451.5(a), in which the applicant wishes the project to be reviewed; (4) the name(s), department, institution, address, and telephone number of the principal investigator(s); (5) the estimated budget amount; and (6) the proposed duration and starting date of the project.

(b) A discussion of the proposed research, of no more than thirty double-spaced, typewritten pages, including: (1) *Description and rationale.* A description of the proposed research, its relation to what is already known and to problems of American education, and the importance of its expected addition to knowledge; (2) *Procedures.* Description of the procedures to be followed in carrying out the research, including, where appropriate, such concerns as sampling, data acquition, instrumentation, and data analysis.

(c) A description of facilities and arrangements available to the investigator for conducting the research.

(d) Resume(s) of the principal investigator(s), including education, applicable experience, and a list of major publications.

(e) An estimate of expenses proposed to be charged against the grant, including direct costs (salaries and benefits, travel, supplies and materials, communication, services, equipment) and indirect costs.

§ 1451.8 Project duration and budget.

(a) Projects may be up to three years' duration.

(b) Applications proposing multi-year projects must be accompanied by an explanation of the need for multi-year support, an overview of the objectives and activities proposed, and budget estimates to attain these objectives in any proposed subsequent year.

(c) If the application demonstrates to the Director's satisfaction that multi-year support is needed to carry out the proposed project, the Director may, in the initial notification of award for the project (which shall be for up to a twelve month period) indicate an intention to assist the project on an appropriate multi-year basis through continuation awards.

(d) Continuation awards may be made to projects described in paragraph (c) of this section, subject to the restriction in paragraph (a) of this section and to the availability of funds.

(e) Applications for continuation awards will be reviewed on a non-competitive basis to determine:

(1) If the award recipient has complied with the award terms and conditions, the Act, and any applicable regulation; and

(2) The project's effectiveness to date, or the constructive changes proposed as a result of the ongoing evaluation.

§ 1451.9 Evaluation criteria.

(a) *Substantive areas.* Applications will be evaluated in competition with other applications submitted in the same substantive area, as described in § 1451.5 (a). In making funding awards, the Director will achieve an equitable distribution of projects among all of these substantive areas. An application must address only one of the substantive areas listed in § 1451.5(a).

(b) *Criteria for evaluation.* Evaluation of applications will be based upon the following criteria.

(1) Significance of the proposed research for American education, including: (i) importance of the research topic from the standpoint of basic knowledge or of a problem(s) of American education; (ii) likely magnitude of the addition that will be made to knowledge if the project is successful, including the generalizability of the results.

(2) Quality of the proposed research project, including such considerations as: (i) adequacy of design, methodology, and instrumentation where appropriate; (ii) likelihood of success of the project; and (iii) extent to which the application exhibits thorough knowledge of pertinent previous work and relates the proposed work to it.

(3) Qualifications of the principal investigator and other professional personnel as evidenced by: (i) experience and previous research productivity; and (ii) quality of the discussion and analysis in the application.

(4) Adequacy of the faciilties and arrangements available to the investigator to conduct the proposed study.

(5) Reasonableness of the budget for the work to be done and the anticipated results.

(c) *Inapplicable criteria.* Evaluation criteria set forth in § 1403.10 of this chapter shall not apply to applications submitted under this part.

§ 1451.7 Project duration.

Projects of up to three years duration will be considered. The initial award for a project may provide funds for less than the project period indicated in the proposal, with further support contingent upon availability of funds and satisfactory progress and quality of the research.

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PART 1470—EDUCATION AND WORK RESEARCH GRANTS PROGRAM

Awarding Federal Funds

Under Section 405 of the General Education Provisions Act, as amended, (20 U.S.C. 1221e) a notice of proposed rulemaking which set forth proposed procedural and substantive requirements and criteria governing the submission and review of applications for funds under the Education and Work Research Grants program was published in the FEDERAL REGISTER on May 5, 1976 (41 FR 18520). Interested persons were invited to submit written comments on the proposed rules, and one comment was received.

Comment. Section 1470.5 proposed to make awards in two problem areas: (a) the career decision making process, and (b) pre-occupation interests and occupational preferences. The comment recommended that the relationship between education, work institution and career education include a choice awareness of entrepreneurship.

Response. The intent of the program is to encourage a broad range of fundamental studies which focus on the two problem areas. Entrepreneurship is a career choice element which could be examined within the context of either of the problem areas. No change has been made.

Other changes. A number of editorial and other non-substantive changes were made to achieve uniformity with other NIE program regulations and to clarify the content. These include changes in §§ 1470.1 and 1470.2. The changes provide more uniformity in wording among NIE rules and clearer expression of purpose.

In § 1470.5 the title is changed from "Types of awards" to "Eligible research projects."

In § 1470.7, paragraph (b)(1) is amended to require the signature on the cover page of the proposal of an individual authorized by the applicant institution to execute grant applications.

Section 1470.8 is renumbered to 1470.9.

Section 1470.9 is renumbered to 1470.8. Language is added to Section 1470.8 to provide a basis for funding for more than one year.

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

It is noted that in publishing these regulations the Institute is not inviting applications in response thereto at this time.

Dated: July 28, 1976.

HAROLD L. HODGKINSON,
Director, National Institute of Education.

Approved: September 21, 1976.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended by adding to Subchapter B of Chapter XIV, a new Part 1470, reading as follows:

PART 1470—EDUCATION AND WORK GRANTS PROGRAM

Sec.

1470.1 Scope.
1470.2 Purpose.
1470.3 Definitions.
1470.4 Applicant eligibility.
1470.5 Eligible research projects.
1470.6 Ineligible projects.
1470.7 Application requirements.
1470.8 Project duration and budget.
1470.9 Evaluation criteria.

APPENDIX—Further Direction on Education and Work Projects.

AUTHORITY: Section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e).

§ 1470.1 Scope.

(a) This part establishes procedural and substantive requirements and criteria governing the submission and review of applications for funds under the Education and Work Grants Program conducted by the National Institute of Education with funds appropriated pursuant to section 405 of the General Education Provisions Act.

(b) Projects funded under this part shall be administered in accordance with applicable provisions of subchapter A of this chapter (General Provisions for NIE grants relating to fiscal, administrative, and other matters), except to the extent that such provisions are inconsistent with, or expressly made inapplicable by, the provisions in this part.

§ 1470.2 Purpose.

(a) The purpose of the Education and Work Grants program is to further the goal of providing American educators with the tools necessary to make further progress in helping all individuals to acquire competencies necessary for full and productive participation in our society. The Education and Work Grants program will do this by supporting studies in substantive areas related to:

(1) The interactions between education and work institutions; and

(2) Career education within the United States.

(b) The objectives of the program are to:

(1) Improve understanding of the relationship between education and work;

(2) Increase the contribution education makes to individuals' abilities to choose, enter, and progress in work that is beneficial to themselves and others; and

(3) Improve understanding of the career development process and the development of programs and activities which can be utilized to assist individuals in making choices which are economically socially, and psychologically rewarding.

(c) The Appendix contains a fuller discussion of the career development process; it imposes no additional requirements but merely gives guidance in meeting the requirements of this part.

§ 1470.3 Definitions.

As used in this part:

"Research project" means a project designed to increase or synthesize basic knowledge about processes or conditions relevant to career development; or providing answers to research problems which can be utilized in program development or for making policy decisions relating to career decision-making.

"Pre-occupational interests" means the broad range of interests which may or may not take on occupational relevance; for example, a student who participates in a science fair or an adult amateur meteorologist could both be said to have a "pre-occupational" interest in science, while the aspiration to be a chemist or a professional weather forecaster represents an occupational preference.

§ 1470.4 Applicant Eligibility.

(a) Applications will be considered under this part only if submitted in response to specific notices in the FEDERAL REGISTER to be issued by the Director.

(b) Colleges, universities, state and local education agencies, and other public or private agencies, organizations, groups or individuals are eligible to apply. Applications from for-profit organizations will be considered as unsolicited proposals and, if successful, will be awarded contracts rather than grants. Applications from for-profit organizations shall be submitted in accordance with criteria specified in this part and in HEW Procurement Regulations, subpart 3–4.52 (41 CFR Part 3–4).

(c) No more than one application per principal investigator will be accepted under each competition. In the event that more than one application per principal investigator is received, the application received earlier in time will be accepted, and subsequent applications will be returned to the applicant.

§ 1470.5 Eligible research projects.

Awards will be made for projects which seek to answer questions in one of two problem areas related to the objectives of this part:

(a) *The Career Decision-Making Process.* The central research question to be addressed by applications under this problem area is: *What factors influence and what competencies are involved in the career decision-making process?* This question may be addressed by projects which address more specifically the following subquestions:

(1) What factors influence and what competencies are involved in different types of decisions, and are there differences for subgroups of the population?

(2) What factors influence and what competencies are involved in the career decision-making process at different developmental phases or at different ages, and are there differences for subgroups of the population?

(b) *Pre-occupational interests and occupational preferences.* The central research question to be addressed by applications under this problem area is: *What is the nature of pre-occupational interests and occupational preferences and what is their relationship to career development?* This question may be addressed by projects which address more specifically the following subquestions:

(1) What antecedent influences affect the formation of, or change in, pre-occupational interests, and are there differences for subgroups of the population?

(2) How are pre-occupational interests translated into occupational preferences?

(c) *Further discussion.* More detailed discussion of the questions set forth in paragraphs (a) and (b) is provided in the Appendix of this part.

(d) *Secondary analysis of data.* NIE has data sets with supporting documentation which are available to successful applicants for secondary analyses of data under their projects. This does not mean that secondary analyses are limited to these data sets. Researchers who are interested in secondary analyses are encouraged to explore any available data sets to respond to the specific problem areas.

§ 1470.6 Ineligible projects.

No awards will be made for development, dissemination, demonstrations, or program operations. Examples of ineligible projects include:

(a) Operation of educational programs which are being carried out in a variety of settings, including schools, postsecondary institutions, states, etc.

(b) Improvement of educational programs through the implementation of new or improved procedures, techniques, materials, or equipment.

(c) Course development through the production of new curricula or the improvement of existing ones, including the preparation of new instructional materials or the modification of those already in existence.

(d) Development or adaptation in an operational setting of any new or improved procedures, techniques, materials, or equipment.

(e) Demonstration projects which show, exhibit, describe, or explain to others, either in person or through various other communication media, the procedures, techniques and materials which must be employed in the execution of a new or modified instructional task or educational program.

§ 1470.7 Application requirements.

(a) Applications shall be submitted on such forms and with such detail as the Director shall require, including a proposal, requisition form, acknowledgement card, and checklist.

(b) A proposal shall include, in such form as the Director shall require:

(1) A cover page signed by the principal investigator and, where required by the applicant institution, by an individual authorized to execute grant applications for the institution, indicating (i) that the application is submitted to the Education and Work Grants Program of the Ntional Institute of Education; (ii) the title of the study; (iii) the substantive area, as described in § 1470.5

(a) and (b), in which the applicant wishes the project to be reviewed; (iv) the name(s), department, institution, address, and telephone number of the principal investigator(s); (v) the estimated budget amount; and (vi) the proposed duration and starting date of the project.

(2) a 200–500 word abstract of the proposed study, and

(3) a 20–40 page proposal which includes:

(i) *Problem statement.* The problem statement shall succinctly state the problem and its significance for the field. The problem under study shall be limited enough in scope to be "solvable." In addition, this section shall include a statement of the generality of the problem and the generalizability of the research. Finally, a brief summary of the purpose of the research shall be stated.

(ii) *Related research.* Review of empirically and theoretically relevant literature shall be concise and linked to the proposed study. The key elements of each study shall be summarized and a critical review of the methodology, theoretical arguments, and conclusions presented. In addition, a discussion of how this project differs from or meshes with these studies shall be included.

(iii) *Objectives.* Specific and concrete objectives (or hypotheses) need to be specified. The hypotheses or questions flow from the problem statement and the review of the literature. The hypotheses of questions shall be testable (or answerable).

(iv) *Procedure.* Where appropriate, this section shall consist of specific discussions of design, sampling, analysis, and instrumentation.

(A) *The design section* provides a discussion and rationale for how the study shall be undertaken. When appropriate, independent and dependent variables shall be discussed with specification of which are to be manipulated, controlled, and left uncontrolled. All hypotheses, detailed under the objectives sections, shall be accounted for. If experimental and control groups are employed these shall be discussed with possible consequences in interpretation of results outlined. For survey or case study designs this section shall detail the sequence of steps and some discussion of the variables under study.

(B) *The sampling section* characterizes the population under study and provides an operational statement about generalizability. When appropriate, sample size shall be included and a rationale for type of sampling (such as stratified, clustered, random, and the like) shall also be included. Generalizability of any findings based on the sample shall also be detailed.

(C) *The analysis section* shall indicate the methods to be utilized and show how the proposed analysis is consistent with the objectives, design, and sampling. In addition, why the mode of analysis was chosen and how it will be done shall be detailed.

(D) *The instrumentation section* describes the conceptual and operational measures used in the study. Prior instrumentation shall be discussed and appropriateness and acceptability of all variables detailed. Where appropriate, validity and reliability issues shall be specified. Finally, if the proposer is developing a new instrument or new questions to tap various constructs, these shall be included and discussed in detail.

(c) In addition, applications shall include:

(1) An outline of plans for the utilization and dissemination of the research findings. The outline shall include plans for dissemination to researchers, theorists, and practitioners or developers.

(2) A description of the facilities available to the researcher for carrying out the proposed research.

(3) Resume(s) of principal investigator(s) and project staff, including education, applicable experience, and publications.

(4) A management plan and time schedule for the proposed project. The management plan shall detail the staff organization for the project, persons responsible for tasks, and project operations plan.

§ 1470.8 Project duration and budget.

(a) Projects may be up to three years' duration.

(b) Applications proposing multi-year projects must be accompanied by an explanation of the need for multi-year support, an overview of the objectives and activities proposed, and budget estimates to attain these objectives in any proposed subsequent year.

(c) If the application demonstrates to the Director's satisfaction that multi-year support is needed to carry out the proposed project, the Director may, in the initial notification of award for the project (which shall be for up to a twelve month period), indicate an intention to assist the project on an appropriate multi-year basis through continuation awards.

(d) Continuation awards may be made to projects described in paragraph (c) of this section, subject to the restriction in paragraph (a) of this section and to the availability of funds.

(e) Applications for continuation awards will be reviewed on a non-competitive basis to determine:

(1) If the award recipient has complied with the award terms and conditions, the Act, and any applicable regulation; and

(2) The project's effectiveness to date, or the constructive changes proposed as a result of the ongoing evaluation.

§ 1470.9 Evaluation criteria.

(a) Applications for assistance under this part will be evaluated in accordance with the criteria described below. The relative weight of the major evaluation criteria is indicated by the percentages assigned.

(1) The significance of the proposed research for American education (20%), including:

(i) The importance of the problem area from the standpoint of basic knowledge or problems of American education;

(ii) The likely magnitude of the addition that will be made to knowledge if the project is successful, including the generalizability of results;

(iii) The appropriateness of the proposed activities to the purposes of the grants program as specified in this announcement.

(2) The quality of the proposed research project (40%), including such consideration as:

(i) The clarity of the problem statement and generalizability of the problem;

(ii) The extent to which the application exhibits thorough knowledge of pertinent previous work and relates the proposed research to it;

(iii) The clarity and testability of objectives or hypotheses;

(iv) The adequacy of design, sampling, methodology, analysis, and instrumentation, where appropriate;

(v) The appropriateness of the data to the questions being answered and the proposal analysis; and

(vi) The likelihood of success of the project.

(3) Quality of the proposed utilization and dissemination plan (5%).

(4) Qualifications of the principal investigator and other professional personnel (15%), as evidenced by:

(i) Experience and previous research productivity; and

(ii) The quality of the discussion and analysis in the application.

(5) The adequacy of the facilities and arrangements available to the investigator to conduct the proposed study (5%).

(6) The reasonableness of the budget for the work to be done and the anticipated results (10%).

(7) The soundness of the management plan and time schedule (5%).

(b) General criteria set forth in § 1403.10 of this chapter are inapplicable.

(c) All applications shall be evaluated by the Director through officers and employees of the Institute and, when deemed advisable by the Director, by such experts or consultants engaged for the purpose as he/she determines are specially qualified in the areas of research involved in the project; provided that final actions on applications shall be taken only by the Director or his/her designeee who will be directly responsible to the Director.

Appendix—Further Direction on Education and Work Project

1. *The Career Decision-Making Process.* In § 1470.5(a) NIE is calling for proposals to explore, from any of a number of perspectives, the career decision-making process. Career decisions are seen as including a wide range of decisions throughout a person's life (junior high school course selection, choice of a college major, first job selection, selection of adult training, mid-career job change, and the like). These perspectives may vary with regard to the skills, knowledge, attitudes, social-psychological characteristics, competencies, experiences or "chance" factors

which influence the making of career decisions. The perspectives may vary with respect to the meanings or significance ascribed to the outcomes of the career decision-making process. They may also vary with respect to the nature of the decisions, their complexity, magnitude, or the age at which they are made. Finally, the perspectives may vary according to the conceptual scheme used to view the decision-making process ranging, for example, from a rational or deterministic approach to one placing greater emphasis on the non-rational or "chance" factors.

In all instances, however, the intent of NIE is to gain knowledge that could improve the contribution of education to the career decision-making process. Thus, consideration in the proposals might be given to perspectives which examine variables amenable to educational or developmental opportunities. Also, consideration might be given to the conceptual, empirical and/or practical underpinnings of the particular model used as the basis for any study; such consideration might include definitions or explanations of key concepts and terms. Proposed research might concentrate on increasing our understanding of how and when career-relevant decisions occur, with specific attention to competencies, knowledge, and skills that an individual brings to and uses in decision-making, to the societal and institutional forces which constrain or enhance career-related decisions, and to the interaction between these two areas.

As indicated in § 1470.5(a) a central research question of interest here is: *What factors influence and what competencies are involved in the career decision-making process?* Consideration should be given to the wide range of factors that affect (positively or negatively) the career decision-making process, e.g., institutional or societal forces, individual skill in gathering and assessing information and in assessing capabilities and interests, and institutional or system awareness. The research should go beyond demonstrating the existence or effects of, for example, a school requirement forcing a curriculum choice, and attempt to explain how this influence is mediated through the knowledge that a pupil has about herself or himself, about existing opportunities, and about consequences of actions. Thus, a study showing a correlation between family background and a range of possible decisions should investigate how the family influences the decision-making process.

Of particular interest are studies in these two general areas:

(a) *What factors influence and what competencies are involved in different types of decisions and are there differences for subgroups of the population* (women, sociocultural groups, economic groups, and the like). Many career decision-making models assume the type of decision is important in explaining the career decision-making process. Types of decisions have been differentiated based on ". . . the distance in time from the present situation to the imagined futures under consideration." (Jepsen, D. and Dilley, J. "Vocational Decision-Making Models: A Review and Comparative Analysis." *Review of Educational Research*. (Summer) 1974:331–349). (e.g., occupational choice has long-range effects while choice of a college major has short-range consequences). A study might investigate, for example, what effects various information skills or environmental factors have on different types of decisions.

(b) *What factors influence and what competences are involved in the career decision-making process at different developmental phases or at different ages, and are there differences for subgroups of the population?* Many theories of career development use the concept of career stages or some time-related notion to describe the career development process. For example, a study might determine whether the skills of assessing one's own capabilities and interests increase as one moves from one stage to another or whether the influence of formal institutions decreases as one grows older.

2. *Pre-occupational Interests and Occupational Preferences.* NIE is also calling for proposals which explore the dynamics of interest formation and change and investigate how occupational or career-related preferences emerge from the broader set of interests an individual has as indicated in § 1470.5(b). For this research pre-occupational interests should be differentiated from occupational preferences. Pre-occupational interests represent a person's broad range of interests which may or may not take on occupational relevance. Occupational preferences refer to that set of interests which have taken or been given occupational direction. For example, a student who participates in a science fair or an adult amateur meteorologist could both be said to have a pre-occupational interest in science, while the aspiration to be a chemist or a professional weather forecaster represents an occupational preference.

A central research question here is: What is the nature of pre-occupational interests and occupational preferences as they relate to career development? Proposals are invited which address this central question through two sub-questions:

(a) *What antecedent influences affect the formation of, or change in, pre-occupational interests and are there differences for subgroups of the population* (women, sociocultural groups, economic groups, etc.)? For example, what are the effects of various factors such as sex or ethnicity of student and teacher, course subject matter, role models, or current labor market position on the development of, or change in, pre-occupational interests?

(b) *How are pre-occupational interests translated into occupational preferences?* For example, what factors (e.g., peers, family, role model, etc.) lead students with similar pre-occupational interests to develop different occupational preferences? Another example could be, what or who influences the translation of pre-occupational interests into career preferences for adults re-entering the paid labor force or anticipating mid-career changes?

[FR Doc.76-28291 Filed 9-27-76;8:45 am]

CHAPTER XVIII—HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

PART 1801—HARRY S. TRUMAN SCHOLARSHIP PROGRAM

The following regulations were adopted by the Board of Trustees of the Harry S. Truman Scholarship Foundation on September 20, 1976.

The Harry S. Truman Memorial Scholarship Act honors the thirty-third President of the United States by creating a perpetual education Scholarship program to help college students prepare for public service careers. The program was established as a living memorial to President Truman because of his high regard for the public trust, his lively exercise of political talents, his broad knowledge and understanding of the American political and economic system, and his strong desire for increased educational opportunities for young people.

The Harry S. Truman Scholarship Foundation is authorized to award Scholarships to persons preparing for a career in public service. The Foundation has defined public service to mean participation in government, with emphasis on administration and management and on potential leadership ability. Careers at all levels and functions of government are specifically included in this definition.

The Foundation will carry out an annual nationwide Scholarship competition for outstanding college students who plan to follow careers in public service. Nominees for Truman Scholarships must specify in their application, in 500 words or less, their interest in pursuing a career in public service and how their educational plans will prepare them for the chosen career goal. The essay should detail how the applicant's planned academic program will prepare him or her for a specific career in government. Courses in history, political science, public administration, economics and finance, and international relations are among the types of studies considered by many educators to be appropriate in this connection. No such list of areas of study can be comprehensive or exhaustive, however, and applicants should feel free to offer other germane fields of study that they believe would help them prepare for a career in government.

The regulations set forth below will govern the annual Scholarship competition. They are issued under the authority of the Harry S. Truman Memorial Scholarship Act, Pub. L. 93–642 (20 U.S.C. 2001–2012).

The Scholarship award procedures included in these regulations are designed, as required by the Act, to assure that a Truman Scholar is selected from each State each year in which there is an eligible resident applicant. If there are no eligible nominees from one or more States, the Foundation can ask for additional applicants.

Each Scholarship covers tuition, fees, books, and room and board, up to a limit of $5,000. The cost allowed for books is set at $180. A survey of Federal education programs reveals that the average annual cost ranges between $150–$180. This approach reduces the burden on the institution of higher education, since the amount charged for books will not have to be checked to make sure that it is reasonable for that particular student. Also, this will permit the Truman Scholar to submit the necessary report and receive the first payment at an earlier date than would happen if the amount were allowed to vary from each student.

The cost of room and board is also a set figure, but would vary depending on the average cost at the particular institution for the type of housing which the Truman Scholar will occupy.

It is the intent of the Harry S. Truman Scholarship Foundation to issue necessary amendments to these regulations as additional experience is gained in the operation of the program.

Effective date: These regulations are effective October 1, 1976.

Dated: September 23, 1976.

ROBERT E. CLEARY,
Executive Secretary.

Title 45 of the Code of Federal Regulations is amended by establishing a new Chapter XVIII to read as set forth above and adding a new Part 1801, to read as follows:

Subpart A—General

Sec.
1801.1 Annual Truman Scholarship competition.
1801.2 Truman Scholars are selected from each State.
1801.3 Students eligible for nomination.
1801.4 Definitions.

Subpart B—Nomination

1801.10 Nomination by institution of higher education.
1801.11 Annual nomination.
1801.12 Institutions with more than one campus.
1801.13 Two-year institutions.
1801.14 Submission of application to the Foundation.
1801.15 Faculty representative.
1801.16 Closing date for receipt of nominations.
1801.17 Contents of application.
1801.18 Harry S. Truman Scholarship Qualifying Test.

Subpart C—The Competition

1801.20 Selection of semi-finalists.
1801.21 Evaluation criteria.
1801.22 Interview of student with regional review panel.
1801.23 Recommendation by panel.
1801.24 Further recommendations or nominations.
1801.25 Selection of Truman Scholars by the Foundation.

Subpart D—Amount of Payments to Students

1801.30 Travel expenses of semi-finalists.
1801.31 Scholarship awards.
1801.32 Definition of "fee".
1801.33 Allowance for books.
1801.34 Allowance for room and board.
1801.35 Deduction for benefits from other sources.

Subpart E—Payment Conditions and Procedures

1801.40 Acceptance of the scholarship.
1801.41 Report at the beginning of each term.
1801.42 Definition of "term".
1801.43 Payment schedule.
1801.44 Postponement of payment.

Subpart F—Duration of Scholarship

1801.50 Renewal of scholarship.
1801.51 Termination of scholarship.
1801.52 Recovery of scholarship funds.

AUTHORITY: Pub. L. 93-642, 88 Stat. 2276 (20 U.S.C. 2001-2012).

Subpart A—General

§ 1801.1 Annual Truman Scholarship competition.

Each year, the Harry S. Truman Scholarship Foundation carries out a Nationwide competition to select students to be Truman Scholars.

§ 1801.2 Truman Scholars are selected from each State.

(a) At least one Truman Scholar is selected each year from each State in which there is a resident applicant who meets the eligibility criteria in § 1801.3.

(b) As used in this part, "State" means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, and considered as a single entity: Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

§ 1801.3 Students eligible for nomination.

A student is eligible to be nominated as a Truman Scholar if he or she:

(a) Is a matriculated student pursuing a degree at an institution of higher education during the year in which nominated;

(b) Will be a junior pursuing a bachelor's degree as a full-time student at an institution of higher education the following academic year;

(c) Has an undergraduate field of study that permits admission to a graduate program leading to a career in public service;

(d) Has an undergraduate average of at least "B" or its equivalent and ranks in the upper fourth of his or her class; and

(e) Is a national of the United States, or is in the United States for other than a temporary purpose and intends to become a permanent resident, or is a permanent resident of the Trust Territory of the Pacific Islands.

§ 1801.4 Definitions.

As used in this part:

"Academic year" means the period of time, typically 8 or 9 months, in which a full-time student would normally complete two semesters, two trimesters, three quarters, or the equivalent.

"Foundation" means the Harry S. Truman Scholarship Foundation.

"Full-time student" means a student who is carrying a sufficient number of credit hours or their equivalent to secure the degree or certificate toward which he or she is working, in no more than the length of time normally taken at the institution of higher education.

"Institution of higher education" has the meaning given in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"Junior" means the academic level recognized by the institution of higher education as having third year standing.

"President" means the principal official responsible for the overall direction of the operations of an institution of higher education.

"Public service" means a career at any level or in any function of government.

"Resident" means a person who has legal residence in the State, recognized under State law.

"Sophomore" means the academic level recognized by the institution of higher education as having second year standing.

Subpart B—Nomination

§ 1801.10 Nomination by institution of higher education.

To be considered in the competition, a student must be nominated by the institution of higher education that he or she attends.

§ 1801.11 Annual nomination.

(a) Except as provided in §§ 1801.12 and 1801.13, each institution of higher education may nominate one student annually.

(b) The nomination must be made by the President of the institution after the President asks for and considers recommendations by the faculty.

§ 1801.12 Institutions with more than one campus.

If an institution of higher education has more than one component with identification numbers assigned by the Federal Interagency Committee on Education, each component of the institution may nominate one student.

§ 1801.13 Two-year institutions.

If an institution of higher education does not offer education beyond the sophomore level, the institution may nominate only a student who will be a junior the following year at another institution of higher education.

§ 1801.14 Submission of application to the Foundation.

To nominate a student for the competition, the institution of higher education must send the student's application to the Foundation.

§ 1801.15 Faculty representative.

Each institution which nominates a student or which has a Truman Scholar in attendance must give the Foundation the name, business address, and business telephone number of a member of the faculty who will serve as liaison between the institution and the Foundation.

§ 1801.16 Closing date for receipt of nominations.

The Foundation publishes an annual notice in the FEDERAL REGISTER of the date by which institutions of higher education must submit their nominations and all supporting documents in order to be guaranteed consideration by the Foundation.

§ 1807.17 Contents of application.

(a) The Foundation provides a form that must be used as the application.

(b) Each application must include the following:

(1) A statement that the student is an applicant for a Truman Scholarship;

(2) A statement that the student plans to pursue a career in public service;

(3) A list of the student's public service activities, such as those associated with government agencies, community groups, political campaigns, and charities;

(4) A list of leadership positions the student has held during high school and during the first two years of undergraduate school;

(5) A statement that the student is willing to participate in an internship or seminar sponsored by the Foundation; and

(6) Examination papers of the Harry S. Truman Scholarship Qualifying Test completed by the student as provided under § 1801.18.

(c) In support of each nomination the following documents must also be submitted:

(1) An essay of 500 words or less, written by the student, that shows the student's interest in pursuing a career in public service and how the student's educational plans will provide preparation for that career;

(2) Transcripts of the student's high school and undergraduate scholastic record; and

(3) Three letters of recommendation. One of these letters must be written by a faculty member in the student's field of study, and one must be written by another person who can speak to the student's potential for a career in public service.

§ 1801.18 Harry S. Truman Scholarship Qualifying Test.

(a) The Foundation provides the Harry S Truman Scholarship Qualifying Test to each institution which nominates a student.

(b) The institution must administer the test in accordance with the instructions that accompany the test.

Subpart C—The Competition

§ 1801.20 Selection of semi-finalists.

The Foundation selects semi-finalists from the students who are nominated.

§ 1801.21 Evaluation criteria.

(a) The Foundation first selects the students from each State who receive the highest scores on the Harry S. Truman Scholarship Qualifying Test.

(b) The Foundation then selects semi-finalists from the students selected under paragraph (a) of this section on the basis of the following criteria:

(1) The extent to which the student has shown an outstanding potential for leadership in the public service; and

(2) The student's academic performance.

(c) The Foundation evaluates each student solely on the basis of the information required under § 1801.17.

§ 1801.22 Interview of student with regional review panel.

The Foundation invites each semi-finalist to an interview with a Regional Review Panel.

§ 1801.23 Recommendation by panel.

(a) Each Regional Review Panel recommends two finalists from each State to the Foundation.

(b) The two finalists must be recommended in the order of their qualification to be a Truman Scholar, based on the interviews with the Panel and the material required under § 1801.17.

§ 1801.24 Further recommendations or nominations.

(a) The Foundation may ask a Regional Review Panel to submit the names of additional finalists for consideration, or may ask institutions of higher education to submit additional nominations.

(b) If additional nominations are made under paragraph (a) of this section, the applications must meet the requirements of Subpart B of this part, and are considered under the procedures of this subpart.

§ 1801.25 Selection of Truman Scholars by the Foundation.

(a) The Foundation names Truman Scholars after receiving recommendations from the Regional Review Panels.

(b) The Foundation also names an alternate for each Truman Scholar. The alternate receives the scholarship if:

(1) The person named as a Truman Scholar is not able to begin studies at the start of the following academic year, and

(2) Payments are not postponed under § 1801.44.

Subpart D—Amount of Payments to Students

§ 1801.30 Travel expenses of semi-finalists.

(a) Each semi-finalist may receive reimbursement for the actual and necessary expenses of round trip transportation to the location of the Regional Review Panel.

(b) The Foundation uses the Federal Travel Regulations (referenced in 41 CFR 101–7.003) as a guide to determine the amount of the reimbursement.

(c) The Foundation informs semi-finalists of the procedures for obtaining this reimbursement.

§ 1801.31 Scholarship awards.

Each Truman Scholar receives annually $5000 or the cost of tuition, fees, books, and room and board, whichever is less.

§ 1801.32 Definition of "fee".

As used in this part, "fee" means a typical and usual non-refundable charge by the instittuion of higher education for a service, a privilege, or the use of property.

§ 1801.33 Allowance for books.

The cost allowed for a student's books is $180 per year.

§ 1801.34 Allowance for room and board.

The cost allowed for a student's room and board is the amount the institution of higher education reports to the College Scholarship Service as the average cost of room and board for the student's institution, given the type of housing the student occupies.

§ 1801.35 Deduction for benefits from other sources.

(a) The cost allowed for a student's tuition, fees, books, and room and board must be reduced to the extent that the cost is paid for by another organization.

(b) This section does not apply to benefits the student receives from the Veterans Administration.

Subpart E—Payment Conditions and Procedures

§ 1801.40 Acceptance of the scholarship.

To receive any payment, a Truman Scholar must sign an acceptance of the scholarship and submit it to the Foundation.

§ 1801.41 Report at the beginning of each term.

The Truman Scholar must submit the following material to the Foundation at the beginning of each term:

(a) A statement of the student's costs for tuition, fees, books, and room and board.

(b) A certification by an authorized official of the institution that the statement of those costs is accurate.

(c) A certification of the amounts of those costs that are paid for by another organization.

(d) A certification by an authorized official of the institution that the Truman Scholar:

(1) Is a full-time student and is taking a course of study, training, or other educational activities to prepare for a career in public service; and

(2) Is not engaged in gainful employment that interferes with the Scholar's studies.

(e) A certification by an authorized official of the institution of whether the Truman Scholar is in academic good standing.

(f) A certification by an authorized official of the institution that the institution makes continuing efforts to encourage the Truman Scholar to enter public service after completing his or her educational program.

§ 1801.42 Definition of "term".

As used in this part, "term" means the period which the institution of higher education uses to divide its academic year: Semester, trimester, or quarter.

§ 1801.43 Payment schedule.

The Foundation will pay the Truman Scholar a portion of the award after each report submitted under § 1801.41.

§ 1801.44 Postponement of payment.

(a) A Truman Scholar may request the Foundation to postpone one or more payments because of sickness or other circumstances.

(b) If the Foundation grants a postponement, it may impose such conditions as it decides are necessary.

Subpart F—Duration of Scholarship

§ 1801.50 Renewal of scholarship.

It is the intent of the Foundation to renew scholarship awards for a period not to exceed a total of four academic years, only in accordance with the regulations established by its Board of Trustees, and subject to an annual review for compliance with these requirements.

§ 1801.51 Termination of scholarship.

(a) The Foundation may terminate a scholarship under the following specific conditions:

(1) If the Truman Scholar does not meet the criteria in § 1801.41(e) for two consecutive terms, or

(2) If the Truman Scholar does not meet the criteria in § 1801.41(d) or § 1801.3(e).

(b) Before it terminates a scholarship under these conditions the Foundation gives the student notice and an opportunity to be heard with respect to the grounds for termination.

§ 1801.52 Recovery of scholarship funds.

If a scholarship is terminated or if the student resigns a scholarship, all scholarship funds which have not been spent or which the student may recover must be returned to the Foundation.

[FR Doc.76-28372 Filed 9-27-76;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 241]

PART 1033—CAR SERVICE

Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution, Rules and Practices; Modification of Car Service Rule 7; Corrected Order 1

At a General session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 25th day of August 1976.

It appearing, that in the report herein, 335 I.C.C. 264, decided August 21, 1969, as modified in 335 I.C.C. 874 (1970), and 343 I.C.C. 360, 365 (1973), Car Service Rule 7 was prescribed for mandatory observance, and was intended to alleviate delays to loaded cars at terminals and interchange points.

It further appearing, that by petition filed on November 3, 1975, the Association of American Railroads seeks modification of the said Car Service Rule 7 so as to clarify certain existing provisions of Rule 7 where disputes among railroads have arisen, and to expand upon the penalty provision of paragraph (D) so as to make the penalty applicable on defined "error delivery cars" in addition to the existing penalty on "no bill" cars; that the petition was served upon all known railroads in the United States and parties of record in this proceeding; and that no replies thereto have been received.

And it further appearing, that on the date of this order the Commission entered its report on further consideration finding that the proposed modification will be in the public interest; therefore,

It is ordered, That the said Car Service Rule 7, 49 CFR 1033.7 as set forth in appendix G to the report, 335 I.C.C. 264, at pages 350-351, as modified in 343 I.C.C. 360, be and it is hereby, further modified to read, as follows effective the first day of October, 1976:

RULE 7

(A) Cars shall be considered as having been delivered to a connecting railroad when placed upon the track agreed upon and designated as the interchange track for such deliveries, accompanied or preceded by necessary data for forwarding and to insure delivery, and accepted by the car inspector of the receiving road.

Notwithstanding the foregoing paragraph, the receiving road shall be responsible for the cars, contents and per diem after receipt of the proper data [1] for forwarding and to insure delivery. This responsibility shall continue as respects cars rejected by the car inspector of the receiving road until such cars have been returned to the delivering road. The effect of this paragraph may be altered by special arrangements made between the roads concerned.

(B) (1) Each railroad, with due regard for efficient and economical railroad operating practices or conditions beyond the carrier's control, will interchange within 24 hours after arrival or release at interchange station, all cars which it properly may interchange in accordance with the provisions of Section (A) of this rule, subject to the following exceptions (2) to (4) inclusive.

(2) Cars covered by an embargo.

(3) Cars covered by written or telegraphic notification [2] given by the intended receiving line stating that it is unable to receive.

(4) Cars which cannot be placed physically upon the designated interchange track.

(C) When interchange required by Section (B), Paragraph (1) of the rule cannot be accomplished, the provisions of Car Hire Rule 15 will apply.

(D) In event cars are placed on interchange tracks without necessary data for forwarding, receiving carrier will give written or telegraphic notification [2] to delivering carrier of the lack of such forwarding data and:

(1) Upon request of carrier delivering cars without proper forwarding data, receiving carrier will return such cars to delivering carrier's designated interchange track or, if receiving carrier agrees, car may be delivered to the proper carrier within the same switching district for which the delivering carrier will pay a charge of twenty-five ($25) dollars per car [3] to the carrier returning the car or delivering the car to the proper carrier. When an intermediate switching carrier is used in disposing of such cars within the same switching district, any intermediate switching and car hire charges applicable, except those for which the switching carrier is directly responsible, will be paid by the line-haul delivering carrier.[4]

(2) When cars are held by receiving carrier awaiting disposition or necessary forwarding data from delivering carrier, a charge of five ($5) dollars per car will be assessed by the receiving carrier against the delivering carrier [4] for each day or fraction thereof car is held from the first 12:01 a.m. following written or telegraphic notification [2] until disposition is finished by the delivering carrier.

This provision does not apply when the forwarding data are awaited from a shipper served by the delivering carrier, in which case the cars would be subject to demurrage charges under the provisions of Rule 3, Section F, of the published General Car Demurrage Rules and Charges.

(E) At the option of the receiving carrier, cars delivered in error may be returned to the delivering carrier or delivered to the proper carrier within the same switching district, for which the delivering carrier [4] will pay a charge of twenty-five ($25) dollar per car [3] to the carrier returning the car or delivering it to the proper carrier. The receiving carrier must give written or telegraphic notification [2] to the delivering carrier within five [5] calendar days of the error delivery. Error deliveries, for purpose of this rule, are defined as follows:

(1) Receiving carrier is not named or included in the route.

(2) Empty car is received for loading but was not ordered by receiving carrier.

(3) Empty car received is not at home on receiving carrier or receiving carrier is not required to handle under ICC Car Service Rules or Orders, or directives of Car Service Division of the AAR.

(4) Empty car received as a load.

When an intermediate switching carrier is used in disposing of such cars, any intermediate switching and car hire charges applicable, except those for which the switching carrier is directly responsible, will be paid by the delivering line-haul carrier.[4]

(F) Bills made under this rule must be presented within three (3) months from the last day of the month in which the charges accrued. Carrier receiving such bills must pay or return with explanation as to unpaid items within three (3) months from the last day of the month after receipt.

(G) Any disputes arising under this rule shall be handled under the provisions of Car Hire Rule 17.

INTERPRETATIONS

Question: After a car has been accepted by the inspector of the receiving road, is the delivering road relieved from responsibility for damage to car and contents?

Answer: Yes (June 20, 1924).

Question: Where a car has been accepted by the inspector of the receiving road but is not accompanied or preceded by proper data for forwarding and to insure delivery, is the receiving road relieved from responsibility for damage to the car and contents?

Answer: No, but the rule gives the right to receiving road to refuse to accept in interchange cars which are not accompanied or preceded by proper data for forwarding and to insure delivery, and when such cars are not accepted in interchange they are still in the possession of the delivering road. (June 20, 1924).

When a loaded freight car containing a shipment destined to a non-agency station (a station at which there is no

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[1] This order corrects a previous order of the Commission dated August 25, 1976, in which the Code of Federal Regulations section to be modified was erroneously omitted. In addition Section E(3) has been corrected to reflect the omission of the word "orders."

freight agent), billed collect or insufficiently prepaid, is offered in interchange, it shall be accepted from the connecting carrier and forwarded to destination. (January 25, 1926).[5]

(1) The character of the necessary data will be determined by each receiving road in accordance with the conditions of its service.

(2) Where notification is required in this rule, the method may be modified when agreed to in writing by the carriers involved.

(3) In no instance shall more than one (1) twenty-five ($25) dollar charge as set forth in Section (D), Paragraph (1) or Section (E) be assessed per car.

(4) When an intermediate switching carrier is acting on instructions of a line haul carrier, the charges set forth in Sections (D) and (E) of this rule will be paid by the line-haul carrier.

(5) Rules of the AAR Accounting Division make provision for the adjustment of freight charges between the originating and the delivering carrier.

It is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof 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.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.76-28354 Filed 9-27-76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

The following special regulations are issued and are effective on September 28, 1976. The limited time ensuing from the date of the adoption of the Federal migratory game bird regulations to and including the establishment of State hunting seasons makes it impracticable to give public notice of proposed rule making.

§ 32.12 Special regulations, migratory game birds; for individual wildlife refuge areas.

ARIZONA AND CALIFORNIA

CIBOLA NATIONAL WILDLIFE REFUGE

The public hunting of ducks, geese, coots and gallinules on the Cibola National Wildlife Refuge, Arizona and California, is permitted as follows: Ducks, coots and gallinules, from October 2 through October 31, 1976, inclusive, and from November 22, 1976 through January 23, 1977, inclusive; geese, from October 2 through October 31, 1976, inclusive, and from November 22, 1976 through January 2, 1977, inclusive. Hunting is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 8,900 acres, are delineated on maps available at refuge headquarters, Blythe, California, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots and gallinules subject to the following special conditions:

(1) Up to 2 dogs per hunter may be used for the purpose of hunting and retrieving.

(2) Pits or permanent blinds are prohibited.

(3) Hunting is prohibited within one-fourth mile of any occupied dwelling or 250 yards of any farm field worker.

(4) Campfires will be permitted only in designated areas. All other open fires are prohibited.

(5) Cibola Lake, located in Zone 1, is closed to fishing from October 1 through March 1 during the waterfowl use period.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 23, 1977.

HAVASU NATIONAL WILDLIFE REFUGE

The public hunting of ducks, geese, coots, gallinules and common snipe (Wilson's) on the Havasu National Wildlife Refuge, Arizona and California, is permitted as follows: Ducks, coots and gallinules, from October 2 through October 31, 1976, inclusive, and from November 22, 1976 through January 23, 1977, inclusive; geese, from October 2 through October 31, 1976, inclusive, and from November 22, 1976 through January 2, 1977, inclusive; common snipe (Wilson's), from November 22, 1976 through January 23, 1977, inclusive, but only on the areas designated by signs as open to hunting. These open areas, comprising 13,200 acres, are delineated on maps available at refuge headquarters, Needles, California, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, gallinules and common snipe subject to the following special conditions:

(1) An iron shot study program to evaluate field use of iron shot shells will be conducted by the U.S. Fish and Wildlife Service on Havasu National Wildlife Refuge.

(2) Topock Marsh is the designated area for the iron shot hunt. The hunt area includes Pintail Slough and all marsh lands open to hunting north of the south dike.

(3) The iron shot hunt will continue throughout the waterfowl season.

(4) Use of lead shot shells for waterfowl hunting is prohibited in the Topock Marsh iron shot hunt area.

(5) Hunters must use a 12-gauge shotgun, as iron shot shells are available only in 12 gauge.

(6) Iron shot shells will be sold during business hours at the following locations: Premier Sports, 1404 Broadway, Needles, California; Five Mile Landing concession, Route 95, Topock, Arizona; and Sportman's One Stop and Variety, Main Street, Bullhead City, Arizona. Other local dealers of shotgun ammunition may also carry the iron shot shells.

(7) All hunters, at the end of each hunt, *may* be required to fill out a post-hunt questionnaire, which will be available at each of the hunt area entry points.

(8) Waterfowl gizzards may be collected from hunter's bag by the U.S. Fish and Wildlife Service personnel on a random sample basis.

(9) Hunters are required to enter the hunt areas by way of designated parking areas only.

(10) Up to 2 dogs per hunter are allowed for the purpose of hunting and retrieving.

(11) The construction or use of permanent blinds or pits is prohibited.

(12) Hunting is prohibited within one-fourth mile of any occupied dwelling or concession operation.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 23, 1977.

IMPERIAL NATIONAL WILDLIFE REFUGE

The public hunting of ducks, geese, coots and gallinules on the Imperial National Wildlife Refuge, Arizona and California, is permitted as follows: Ducks, coots and gallinules, from October 2 through October 31, 1976, inclusive, and from November 22, 1976 through January 23, 1977, inclusive; geese, from October 2 through October 31, 1976, inclusive, and from November 22, 1976 through January 2, 1977, inclusive. Hunting is permitted on the area designated by signs as open to hunting, and this open area, comprising 16,500 acres, is delineated on maps available at refuge headquarters, Martinez Lake, Arizona, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots and gallinules.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 23, 1977.

NEW MEXICO

BITTER LAKE NATIONAL WILDLIFE REFUGE

The public hunting of ducks, geese, coots, Wilson's snipe and lesser sandhill cranes on the Bitter Lake National Wildlife Refuge, New Mexico, is permitted as follows: Ducks, coots and snipe, from November 6, 1976 through January 23, 1977, inclusive; geese, from October 23, 1976 through January 23, 1977, inclusive; and lesser sandhill cranes, from October 30, 1976 through January 30, 1977, inclusive, but only on the areas designated by signs as open to hunting. These areas consist of 1,600 acres on the North Refuge Unit (Area B) and 1,800 acres on the South Refuge Unit (Area C). Hunt-

ing areas are delineated on maps available at refuge headquarters, 13 miles northeast of Roswell, New Mexico, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, snipe and lesser sandhill cranes subject to the following special condition:

(1) Steel (iron) shot shotgun ammunition *only* may be used for the taking of ducks, geese, coots, snipe and lesser sandhill cranes on the South Refuge Unit (Area C) during the duck season, which is from November 6, 1976 through January 23, 1977, inclusive. Steel (iron) shot shotgun ammunition is available from 2 commercial outlets in Roswell, New Mexico.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 30, 1977.

OKLAHOMA

TISHOMINGO NATIONAL WILDLIFE REFUGE

The public hunting of ducks, geese and coots on the Wildlife Management Unit of the Tishomingo National Wildlife Refuge, Oklahoma, is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 3,170 acres, are delineated on maps available at refuge headquarters, Tishomingo, Oklahoma, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese and coots subject to the following special conditions:

(1) All waterfowl hunting on the Wildlife Management Unit of the Tishomingo National Wildlife Refuge during the 1976–77 waterfowl hunting season will be conducted as part of an experimental program to evaluate use of steel (iron) shot shells for waterfowl hunting. Steel (iron) shot shells are available in 12 gauge only; therefore, 12-gauge shotguns will be the only legal firearm permitted within the hunting areas. It will be illegal for waterfowl hunters to possess shotgun ammunition other than steel (iron) shot shells within the refuge waterfowl hunting areas during the waterfowl seasons, except shells furnished by the refuge for special experiments.

(2) Ducks and coots may be hunted only in Management Unit Zones 1 and 2. Duck and coot hunting is restricted to the periods of one-half hour before sunrise to 11:45 a.m. on Tuesdays, Thursdays, Saturdays, Sundays and national holidays, from October 30 through November 25, 1976, inclusive, and from December 11, 1976 through January 9, 1977, inclusive. Duck and coot hunting in Zone 2 will be restricted to hunters using retrieving dogs.

Eight duck blinds are provided in Zone 1, and hunters will be assigned to these blinds on a first-come-first-choice basis. Construction of temporary blinds is permitted in the "pothole" area of Zone 1. These blinds may be placed where desired after giving due consideration to safety and hunting opportunities of hunters already in the area. Blinds may not be constructed or used within 80 yards of a blind already in use.

(3) Geese may be hunted in Zone 3 only. Goose hunting is restricted to the period of one-half hour before sunrise to 11:45 a.m. on Tuesdays, Thursdays, Saturdays, Sundays and national holidays, from November 4 through November 25, 1976, inclusive, and from December 12, 1976 through January 8, 1977, inclusive.

Thirty-five goose blinds are provided in Zone 3: all goose hunting must be from these blinds. Hunters must apply in writing to the Refuge Manager, Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Oklahoma 73460 for blind reservations. Reservation requests for 5 dates may be submitted.

Hunt applications for specific dates will be processed in the order in which they are received at the refuge until available blind spaces are filled. Confirmations and rejections of applications will be made by mail if time permits.

Blind assignments to those whose applications have been accepted will be determined by a punchboard procedure just prior to each day's hunt.

Each hunter in Zone 3 will be limited to the possession of 6 shotgun shells.

(4) The Management Unit will be closed to waterfowl hunting from November 27 through November 28, 1976 for public safety due to a control deer hunt.

(5) Hunters in Zones 1 and 3 must remain in blinds to which they have been assigned during the hunt except to place or adjust decoys and retrieve birds. Further, hunters may leave their blinds to pick up decoys and return to the check stations only at 9:30 a.m. and after 11:30 a.m.

(6) All hunters in all Zones, upon entering or leaving the area, shall report at designated checking stations for the purpose of purchasing legal steel (iron) shot shells (locally available only through the refuge), blind assignment, and to furnish information on their hunting activities.

(7) Sky-busting, i.e., firing at birds in excess of 45 yards from the hunter, is prohibited in all hunt Zones.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 8, 1977.

TEXAS

BRAZORIA NATIONAL WILDLIFE REFUGE

The public hunting of ducks, geese and coots on the Brazoria National Wildlife Refuge, Texas, is permitted only on the area designated by signs as open to hunting. This open area, comprising 2,300 acres of Rattlesnake Island on the southeast side of the Intracoastal Waterway and adjacent to Bastrop, Christmas and Drum Bays, is delineated on maps available at refuge headquarters, 1014 N. Velasco Street, Angleton, Texas 77515, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of ducks, geese and coots subject to the folowing special conditions:

(1) The open season for hunting ducks and coots on the refuge extends from November 13 through November 28, 1976, inclusive, and from December 11, 1976 through January 23, 1977, inclusive.

(2) The open season for hunting snow geese on the refuge extends from October 30, 1976 through January 23, 1977, inclusive; for Canada and white-fronted geese, from November 13, 1976 through January 23, 1977, inclusive.

(3) Access to the hunting area must be entirely over public water routes. Travel across the refuge mainland will not be permitted to and from the area open to hunting.

(4) Only temporary blinds may be constructed or used on the hunting area. Natural materials may be used for blind construction.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 23, 1977.

LAGUNA ATASCOSA NATIONAL WILDLIFE REFUGE

The hunting of migratory game birds on the Laguna Atascosa National Wildlife Refuge, Texas, is suspended for the 1976–77 hunting season. It has been determined that the entire refuge area is required for resource protection, especially in that the redhead, a bird in short supply, is a major wintering species.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

NEW MEXICO

BITTER LAKE NATIONAL WILDLIFE REFUGE

The public hunting of ring-necked and white-winged pheasants, quail and rabbits on the Bitter Lake National Wildlife Refuge, New Mexico, is permitted as follows: Pheasants, from December 11 through December 14, 1976, inclusive; quail, from October 20, 1976 through January 23, 1977, inclusive; and rabbits, from November 6, 1976 through January 23, 1977, inclusive, but only on the areas open to waterfowl hunting. These areas consist of 1,600 acres on the North Refuge Unit (Area B) and 1,800 acres on the South Refuge Unit (Area C). Hunting areas are delineated on maps available at refuge headquarters, 13 miles northeast of Roswell, New Mexico, and from the Regional Director, U.S. Fish

and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of pheasants, quail and rabbits, subject to the following special condition:

(1) Steel (iron) shot shotgun ammunition only may be used for the taking of pheasants, quail and rabbits on the South Refuge Unit (Area C) during the duck season, which is from November 6, 1976 through January 23, 1977, inclusive. Steel (iron) shot shotgun ammunition is available from 2 commercial outlets in Roswell, New Mexico.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 23, 1977.

BOSQUE DEL APACHE NATIONAL WILDLIFE REFUGE

The public hunting of quail and rabbit on the Bosque del Apache National Wildlife Refuge, New Mexico, is permitted from October 30, 1976 through January 23, 1977, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 44,200 acres, includes all refuge lands east of the Bureau of Reclamation Channelization Project and all lands west of the A.T. & S.F. Railroad right-of-way. These areas are delineated on maps available at refuge headquarters, 8 miles south of San Antonio, New Mexico, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of quail and rabbit subject to the following special conditions:

(1) Access is from U.S. 85 and through the refuge main entrance at headquarters.

(2) Vehicles are restricted to designated public use roads.

(3) Shotguns and falcons are the only legal weapons allowed. However, .22 caliber rimfire weapons may be used for hunting rabbits, only in the designated refuge wilderness units.

(4) Up to 2 dogs per hunter may be used for the purpose of hunting.

(5) Hunters shall leave the refuge by one-half hour after sunset.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 23, 1977.

OKLAHOMA

TISHOMINGO NATIONAL WILDLIFE REFUGE

The public hunting of quail on the Tishomingo National Wildlife Refuge, Oklahoma, is permitted only on the area designated by signs as open to hunting. This open area, comprising 3,170 acres, is delineated on maps available at refuge headquarters, Tishomingo, Oklahoma, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of quail subject to the following special conditions:

(1) The open season for hunting quail on the Management Unit (Zones 1 and 2) extends from sunrise to 11:45 a.m., from December 2, 1976 through February 1, 1977, inclusive, on Tuesdays, Thursdays, Saturdays, Sundays and all national holidays.

(2) Dogs may be used for the purpose of hunting and retrieving.

(3) A Federal permit is not required to enter the public hunting area, but hunters, upon entering and leaving, shall report at designated checking stations as may be established for the regulation of the hunting activity and shall furnish information pertaining to their hunting, as requested.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through February 1, 1977.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

OKLAHOMA

TISHOMINGO NATIONAL WILDLIFE REFUGE

The public hunting of deer on the Tishomingo National Wildlife Refuge, Oklahoma, is permitted throughout the entire area except all of Section 23, the Headquarters area, and farming Unit C, East Fita. This open area, comprising 15,494 acres, is delineated on maps available at refuge headquarters, Tishomingo, Oklahoma, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

(1) The open season for archery deer (either sex) hunting on the Tishomingo Wildlife Management Unit (all Zones) extends from October 16 through October 23, 1976, inclusive. No permits are required. The Management Unit will be closed to all other public use during the archery hunt.

(2) The open season for gun deer (either sex) hunting on the Tishomingo Wildlife Management Unit (all Zones) extends from November 27 through November 28, 1976, inclusive. Hunting will be by permit only, with 50 permits issued for each day's hunt. The Management Unit will be closed to all other public use during the gun hunt.

(3) The open season for gun deer (either sex) hunting on Tishomingo National Wildlife Refuge extends from November 27 through November 28, 1976, inclusive. Hunting will be by permit only, with 40 permits issued for each day's hunt. Hunters will be assigned hunt areas within the area open to deer hunting. In addition, 50 permits per day will be issued to 25 hunter pairs to hunt an area accessible only by boat. Hunters will furnish their own boat transportation and will depart from Nida Point boat ramp on the morning of each hunt day. The Tishomingo National Wildlife Refuge will be closed to all other public use November 27 and 28, 1976.

(4) Federal permits are not required for this hunt; however, only hunters holding computer-drawn permits from the State will be permitted to participate in the hunt. Hunters, upon entering and leaving, shall report at designated checking stations as may be established for the regulation of the hunting activity and shall furnish information pertaining to their hunting, as requested.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 28, 1976.

SEPTEMBER 21, 1976.

JACK WOOLSTENHULME,
Acting Regional Director,
Albuquerque, New Mexico.

[FR Doc.76-28321 Filed 9-27-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 620-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Reaffirmance of Administrator's May 31, 1972, Approval of West Virginia Regulations II and X

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act (the Act) and 40 CFR Part 51, the Administrator approved, with specific exceptions, state plans for implementation of the national ambient air quality standards (NAAQS). Included in this approval was a plan for West Virginia adopted by the West Virginia Air Pollution Control Commission on March 15, 1972. The approval of the West Virginia State Implementation Plan (SIP) appears at 40 CFR Subpart XX, § 52.2520 et seq. (37 FR 10901).

Subsequent to the Administrator's approval of the West Virginia SIP, Appalachian Power Company, Ohio Power Company and Duquesne Light Company (petitioners), pursuant to section 307 of the Clean Air Act, filed petitions with the United States Court of Appeals for the Fourth Circuit on June 23, 1972, to review the approval. Specifically, the challenges concerned Regulation II (particulate matter control) and Regulation X (sulphur oxides control) of the West Virginia Plan. On April 11, 1974, the Court, responding to these challenges, rendered a preliminary decision. "Appalachian Power Company, et al. v. EPA," 477 F.2d 495 (4th Cir. 1973). With

a view toward this decision, EPA and the three utility companies agreed to a remand which was entered by the court on June 19, 1974.

The terms of the remand specified that petitioners would be given an opportunity to state orally and in writing their objections to the West Virginia SIP and support such objections with technical or factual data as they saw fit. EPA would then reassess its original approval in light of the newly augmented record and would propose its findings with respect to relevant portions of the West Virginia SIP in the FEDERAL REGISTER. Such findings would be accompanied by a technical support document setting forth the basis for the action.

On March 4, 1976, at 41 FR 9377, the Administrator proposed his findings, in satisfaction of the June 19, 1974, remand order. After careful consideration of petitioners' objections, the Administrator found that these objections were not proper cause to amend the approval status of West Virginia Regulations II and X and concluded that the regulations were properly approved under section 110 of the Clean Air Act and 40 CFR Part 51.

The technical support document detailing the Administrator's proposed action was completed in late April; its availability to the public was noticed on May 13, 1976, at 41 FR 19759. In this notice, the Administrator announced a sixty-day comment period would follow. Only one comment has been received, that of petitioners Appalachian Power Company, Duquesne Light Company and Ohio Power Company.

In the main, petitioners reiterate the objections to the West Virginia regulations which they raised prior to the Administrator's proposal of March 4, 1976. However their single most important comment is found on page 5 of petitioners' comments, where in discussing the significant Supreme Court decision in *Union Electric Co.* v. *EPA*, ____ U.S. ____, 96 S.C. 2518 (1976), petitioners state that "the Court decided that * * * EPA is not authorized to reject a state plan on the grounds of economic or technical infeasibility, or because it is more stringent than necessary to attain the standards." Petitioners conclude their discussion of "Union Electric" by stating that the Supreme Court decision "has made it clear that (EPA's action under the United States Court of Appeals for Fourth Circuit's remand order in the instant case) may not include disapproval of the West Virginia plan on grounds that it is unduly stringent * * *."

The Administrator agrees that the recent Supreme Court decision requires reaffirmance of the Administrator's approval of West Virginia Regulations II and X. The "Union Electric" case involved a situation similar to the one presented by the instant case. The petitioner, an electric utility company, sought appellate review of the Administrator's approval of regulations for the control of air pollutants. The United States Court of Appeals for the Eighth Circuit dismissed the petition for review on the grounds that economic and technological infeasibility were not proper bases for the Administrator's disapproval of regulations submitted as a State Implementation Plan.

On appeal, the Supreme Court, in an opinion written by Justice Marshall, reviewed the statutory language of section 110 of the Clean Air Act of 1970 [1] and its attendant legislative history to determine the permissible considerations in the Administrator's review of implementation plans. Noting that section 110(a)(2)(A)–(H) establishes the minimum requirements for federal approval of the state implementation plan and that neither technological nor economic feasibility was included in the statutory requirements, the Court concluded that claims of infeasibility may not be factors in the Administrator's consideration of a state plan and that overly stringent plans must be approved as long as the requirements of section 110(a)(2)(A)–(H) are satisfied.[2]

As to the specific enumeration of objections relating to economic and technological feasibility contained in petitioners' comments, the Administrator believes that "Union Electric" is dispositive of all such matters since, in all instances, these objections are intended to illustrate the degree to which the Plan's requirements are overly stringent and/or the difficulty inherent in meeting such requirements. Accordingly, to the extent that such matters were not raised prior to or addressed in the Administrator's earlier proposal, it is felt that no useful purpose would be served by addressing such arguments now. Under "Union Electric" these are matters that are properly brought to the attention of the State, not EPA.

Petitioners Appalachian Power Company, Ohio Power Company and Duquesne Light Company also discuss another significant development concerning EPA's authority to review implementation plans. This development was the enactment of section 4 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA). (Pub. L. No. 93–319, 88 Stat. 246). Petitioners correctly state that this legislative amendment to the Clean Air Act expanded EPA's responsibilities with respect to state implementation plans insofar as EPA was directed to review approved plans to determine whether a revision thereto would interfere with the attainment and maintenance of national ambient air quality standards. However, petitioners are incorrect in their conclusion that the Administrator's duties under ESECA operate as a counterweight to his responsibilities under section 110(a)(2)(A)–(H). "Union Electric" establishes that the Administrator is compelled to approve a plan submitted by a State if it satisfies the requirements of section 110(a)(2), even if the plan is more stringent than needed to meet national standards. ESCA in no way detracts from this non-discretionary, statutory obligation. Rather, under ESECA, the Administrator is merely directed to determine whether a plan is overly stringent and to "report" his determination to the State. Nothing in ESECA either compels or authorizes the Administrator to treat a finding of excess stringency as a basis for altering a prior plan approval or insisting that the State take action of its own. Instead, by merely requiring that the Administrator "report" his findings to the State, it was contemplated that, consistent with the primary role given to the State under sections 110 and 116 of the Act, the State—if it chose to—could use such information as the basis for plan revision. Had Congress intended that a finding of excess stringency under ESECA would carry with it an attendant obligation on the part of EPA to reassess a prior plan approval in light of such determination, it could have easily said so. That it chose not to, but instead left it to the State to decide how such information would be used is, in EPA's judgment, determinative and proves petitioners to be incorrect in their understanding of ESECA.

Consistent with ESECA, EPA has reviewed the West Virginia State Implementation Plan, the findings of which were published in December, 1974. These findings were transmitted from EPA to West Virginia under cover of a letter dated February 26, 1975, from Daniel J. Synder, III, Regional Administrator to Governor Arch Moore of West Virginia. The findings discussed, among other things, the ambient air quality in the state; the major emission sources (all of petitioners' facilities were discussed); and the percentage reduction in emissions required to meet standards or the percentage increase allowable without jeopardizing attainment and maintenance of standards.

On August 2, 1976, the Agency announced that it will form a task force to assist West Virginia in a review of the SO_x emission limitations of Regulation X. This review will undoubtedly consider data developed subsequent to the ESECA review and will aid West Virginia in its determination as to whether a change in the SO_x limitations should be enacted and submitted as a revision to the state implementation plan.

The Administrator believes the ESECA review and the formation of the above-referenced EPA task force fully respond to petitioners' urging that EPA review Regulations II and X in order to determine whether the regulations can be relaxed and report these findings to West Virginia. In any event, the Administrator's obligations under ESECA afford no basis for withholding approval of the West Virginia State Implementation Plan.

In light of the above, the Administrator hereby affirms his original approval of West Virginia Regulations II and X.

[1] Section 110 sets forth the Administrator's duties with respect to the review and approval or disapproval of State-submitted implementation plans.

[2] "Union Electric" at 2529.

Because this action imposes no new requirements or burdens on the affected sources, the Administrator finds good cause to make this action effective on September 28, 1976. This action is taken under the authority of Section 110 of the Clean Air Act, 1857c–5.

Dated: September 21, 1976.

JOHN QUARLES,
Acting Administrator.

[FR Doc.76–28250 Filed 9–27–76;8:45 am]

[FRL 621–1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Alabama: SO_2 Emissions from Fuel Combustion

On August 8, 1974 (39 FR 28528), the Administrator approved, with one exception, changes in the Alabama plan's limitations on sulfur dioxide emissions from fuel burning sources. The plan's original limits of 1.2 and 1.5 pounds of SO_2 per million BTU of heat input, applicable in Class 1 and Class 2 counties, respectively, were relaxed to 1.8 lbs. $SO_2/10^6$ BTU for Jefferson County and Air Quality Control Regions classified Priority I for this pollutant, and 4.0 lbs $SO_2/10^6$ BTU for all other Air Quality Control Regions in the State. The revised limit for the Tennessee Valley Authority's Widows Creek Steam Plant in Jackson County was specifically disapproved, leaving in force for this facility the plan's original limit of 1.2 lbs $SO_2/10^6$ BTU. On January 13, 1976 (41 FR 1921), the Agency announced the State's proposal to revise its approved plan by changing the bases on which its SO_2 emission limits for fuel combustion sources are applied. The purpose of this notice is to announce the Administrator's approval of these changes.

On March 25, 1975, following notice and public hearing, the Alabama Air Pollution Control Commission adopted changes in Part 5.1, Fuel Combustion, of its regulations. The language of § 5.1.1 was changed to make the 1.8 lbs. $SO_2/10^6$ BTU limit apply to fuel combustion sources in Jefferson County or in a Category I County, and the 4.0 lbs $SO_2/10^6$ BTU limit to sources in Category II Counties. A new § 5.1.6 was added to provide for the classification of Counties into Category I or Category II; such classifications are to be adopted only after public hearing and are subject to annual review and subsequent change by the Commission. Also, a sentence was added to § 5.1.3 to make it clear that units subject to Federal New Source Performance Standards shall be treated separately when calculating maximum allowable emissions. These changes were submitted to the Agency's Region IV office as a proposed plan revision on May 1, 1975. The Agency took no action on the proposed revision at that time, however, since an initial classification of the State's Counties into Category I or Category II had not yet been made.

This was done by a resolution of the Commission on September 30, 1975, following proper notice and an additional public hearing on July 31, 1975. The classifications are set forth as Appendix B to the State's air pollution control regulations; Jackson, Jefferson, and Mobile Counties are placed in Category I, and all other Counties in the State in Category II. This action by the Commission was submitted to EPA on October 9, 1975, and was accompanied by supporting control strategy analysis showing that application of the less stringent emission limit of 4.0 lbs $SO_2/10^6$ Btu in fourteen more counties will not interfere with the attainment and maintenance of the national ambient air quality standards. Ten of the Counties affected by the Commission's action—Baldwin, Cullman, De Kalb, Franklin, Lauderdale, Limestone, Madison, Marion, Marshall, and Winston—have no significant SO_2 sources. Dispersion modeling performed in connection with the present revisions shows that Escambia, Lawrence, and Morgan Counties can go to the 4.0 lbs $SO_2/10^6$ Btu limit without jeopardizing national ambient standards. Dispersion modeling conducted with regard to the earlier revision showed that a 4.0 lbs $SO_2/10^6$ Btu limit was adequate to assure the attainment and maintenance of national standards for sulfur dioxide in Colbert County, where the only significant source is a steam electric generating facility of the Tennessee Valley Authority.

Copies of the materials submitted by Alabama in support of the present plan revisions were made available for public inspection at the Agency's offices in Atlanta, Georgia and Washington, D.C. and at the office of the Alabama Air Pollution Control Commission in Montgomery. Comments were solicited from the public, and two comments were received. One comment favored approval of the revisions as proposed. The other urged that the classification of Jackson County as a Category I County be reconsidered in view of the 1000 foot tall stack under construction at the Tennessee Valley Authority's Widows Creek Steam Plant. Recent court decisions rule out such an approach, as amply detailed in EPA's formal policy statement on tall stacks, published in the FEDERAL REGISTER of February 18, 1976 (41 FR 7450).

The Administrator has determined that implementation of Alabama's revised area classification for fuel combustion sources of sulfur dioxide will not interfere with the attainment and maintenance of the national standards for that pollutant. Accordingly, the present revisions are approved. It should be noted that this action does not affect the Administrator's prior disapproval of the SO_2 emission limit applicable to TVA's Widows Creek Steam Plant in Jackson County. For this facility, the original implementation plan emission limit of 1.2 lbs. $SO_2/10^6$ BTU heat input remains in effect, as specified at 40 CFR 52.27(a).

This action is effective immediately. The Administrator finds that it would serve no purpose to delay approval of these changes in the Alabama plan since they are already in effect under State law, and his action imposes no additional burden on any affected source.

(Section 110(a) of the Clean Air Act (42 U.S.C. 1857c–5(a)).)

Dated: September 20, 1976.

JOHN QUARLES,
Acting Administrator.

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

Subpart B—Alabama

1. In § 52.50, paragraph (c) is amended by adding subparagraph (14) as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

(14) Revised area classification system for fuel combustion sources of sulfur dioxide and initial classification of Counties, submitted on May 1 and October 9, 1975, respectively, by the Alabama Air Pollution Control Commission.

2. In § 52.57, paragraph (a) is revised to read as follows:

§ 52.57 Control strategy: Sulfur oxides.

(a) The requirements of § 51.13 of this chapter are not met since the Alabama plan does not provide for attainment and maintenance of the national standards for sulfur oxides in the vicinity of the Widows Creek Power Plant in Jackson County, Alabama. Therefore, Part 5.1, Fuel Combustion, of Chapter 5, Control of Sulfur Compound Emissions, of the rules and regulations of the State of Alabama, as adopted by the Alabama Air Pollution Control Commission on May 29, 1973, and amended on March 25, 1975, which is part of the revised sulfur oxide control strategy, is disapproved as it applies to the Widows Creek Plant. Part 5.1 of the Alabama rules and regulations as adopted on January 18, 1972, remains the implementation plan regulation applicable to that source.

[FR Doc.76–28248 Filed 9–27–76;8:45 am]

[FRL 621–2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Revision to Pennsylvania State Implementation Plan; Correction

On March 2, 1976 (41 FR 8956), the Administrator of the Environmental Protection Agency amended the Identification of Plan Sections for each subpart of 40 CFR Part 52. The revised format provides a more detailed explanation of each approved SIP revision submitted by the respective jurisdictions. The previous format consisted of merely listing the submittal date of a SIP revision request.

On April 30, 1976 (41 FR 18077), EPA approved a revision to the Pennsylvania State Implementation Plan referring to control of sulfur dioxide emissions from zinc smelters. Accordingly, § 52.2020 of

Subpart NN, 40 CFR was amended by adding paragraph (c)(14) in accordance with the revised Identification of Plan format whose required use was known to be imminent. This paragraph briefly described the nature of the approved revision as well as the date of submittal. However, 40 CFR 52.2020 was also amended by including a paragraph (c)(4) which listed only the submittal date of this same SIP revision, as was the required procedure prior to March 2, 1976. As a result, paragraph (c)(4) of 40 CFR 52.2020, as it appeared prior to April 30, 1976, was inadvertently deleted. That version contained a reference to Allegheny Regulation XVIII which should not have been deleted from the April 30, 1976, FEDERAL REGISTER notice. With this notice, the Administrator hereby rescinds the amendment to 40 CFR 52.2020(c)(4) which appeared in the April 30, 1976 notice of final rulemaking, and reinstates paragraph (c)(4) as amended on March 2, 1976.

(42 U.S.C. 1857c-5.)

Dated: September 20, 1976.

JOHN QUARLES,
Acting Administrator.

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

Subpart NN—Pennsylvania

1. In §52.2020, Paragraph (c)(4) is amended as follows:

§ 52.2020 **Identification of Plan.**

* * * * *

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

(4) Article XVIII of the Air Pollution Control Regulations regarding Allegheny County, submitted June 6, 1972, by the Governor.

[FR Doc.76-28249 Filed 9-27-76;8:45 am]

[FRL 624-8]

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

Control of Lead Additives in Gasoline

BACKGROUND

On December 6, 1973 (38 FR 33734), the Environmental Protection Agency published in the FEDERAL REGISTER regulations controlling the amount of lead additives used in gasoline. Under the regulations, the average lead content of a gallon of gasoline is to be reduced over a period of four years to 0.5 gram per gallon after January 1, 1979, in accordance with a prescribed reduction schedule. Enforcement of the regulations is based upon quarterly reports required to be submitted by refiners and lead additive manufactures. Refiners are required to report lead usage and gasoline production at each refinery. Lead additive manufacturers must provide information regarding the quantity of lead additives shipped to each refinery.

The U.S. Court of Appeals for the D.C. Circuit by a 2-1 vote on December 20, 1974 set aside the regulations, EPA suspended enforcement on February 20, 1975 (40 FR 7480). On March 17, 1975, the Court granted the Agency's petition for rehearing *en banc* and vacated the prior judgment and opinions. On April 25, 1975, EPA continued the suspension of enforcement until the D.C. Circuit rendered its decision after rehearing (40 FR 18217). The D.C. Circuit issued its opinion upholding the regulations on March 19, 1976, but the industry litigants indicated their intention to seek Supreme Court review. On April 1, 1976 (41 FR 13984), EPA continued the suspension of enforcement but reinstated the reporting requirements. After the Supreme Court denied certiorari on June 14, 1976, EPA published a notice lifting its suspension of enforcement and stating that it would resume enforcement of the phase-down scheduled on October 1, 1976. (41 FR 28352, July 9, 1976.)

Due to the uncertainties caused by the course of this litigation and the changes in the nation's crude oil and gasoline supply situation, the July 9, 1976 notice provided opportunity for all interested persons to submit for Agency consideration prior to July 31, 1976, information, data and arguments concerning enforcement of the promulgated lead reduction schedule. The Agency announced its intention to enforce the promulgated schedule as of October 1, 1976, unless the information, data and arguments submitted demonstrated conclusively that compliance with the promulgated schedule would be technologically infeasible or would result in unreasonable economic impacts.

In order to remove lead additives from gasoline and retain the octane rating necessary to meet the octane requirements of motor vehicle engines, it is necessary for refiners to produce more high octane components as a lead substitute. The amount of high octane components which can currently be produced is insufficient to supply the demand created by the need for lead-free gasoline, gasoline complying with the phase-down schedule and feedstocks for the petrochemical industry.

Production of high octane components requires that a refiner install additional refining facilities. The lead time necessary to plan, procure and construct the new equipment is about 2 to 3 years from the completion of planning to on-line operation. It is more efficient for a refiner to install sufficient capacity to meet the lowest required lead level than to build smaller additions each year to meet a gradually phased schedule. In other words, given the need to add new processing facilities at a particular refinery, the addition needed to enable a reduction of lead content from 2.0 gpg to 1.0 gpg would require approximately the same lead time as that enabling a full reduction to 0.5 gpg.

STATUS OF COMPLIANCE

The promulgated schedule requires compliance as follows:

Lead content grams/gallon	Date
1.7	After Jan. 1, 1975.
1.4	After Jan. 1, 1976.
1.0	After Jan. 1, 1977.
0.8	After Jan. 1, 1978.
0.5	After Jan. 1, 1979.

The lead usage reports submitted for the April-June calendar quarter of 1976 pursuant to EPA's April 1, 1976, FEDERAL REGISTER notice showed an average lead concentration for the second quarter of 1.70 grams of lead per gallon for refiners with capacities above 30,000 barrels of crude input per day and 2.56 for those refiners below 30,000 barrels per day. The average lead concentration for all refiners reporting was 1.72 grams per gallon.

In response to the FEDERAL REGISTER notice of July 9, 1976, EPA received responses from 99 refiners representing approximately 200 refineries. The information provided in those responses and otherwise obtained by EPA indicates that the amount of construction for octane improvement currently underway or planned to be initiated in the immediate future will not allow production of sufficient high octane components for many refiners to both produce their anticipated levels of gasoline and meet the imminent interim dates of the lead phase-down schedule. The alternative for compliance with the interim dates available to refiners unable to produce sufficient high octane component substitutes for lead additives is to cut back on production of gasoline.

The consulting firm of Sobotka & Co., Inc., under contract to the EPA, analyzed the refiners' responses in conjunction with the quarterly reports required to be submitted by refiners and lead additive manufacturers under the existing regulation. The Federal Energy Administration (FEA) has also completed its preliminary assessment of the impact on motor gasoline supplies of the EPA lead phase-down schedule, using (1) industry projections of gasoline availability by the 22 largest refiners (with capacities of 175 thousand barrels per calendar day (MBPCD) or more) who represent about 83% of the United States gasoline market and 90% of the unleaded gasoline supply; (2) FEA data for the remainder of the industry (principally refiners with capacities below 175 MBPCD); and (3) a separate analysis by the consultant engineering firm Turner, Mason and Solomon under contract to FEA using FEA's refinery yield model. FEA combined the large refiners' projected gasoline availabilities and its estimates of small refiners' gasoline availabilities to arrive at total available supplies to compare with its demand projections. These projections and estimates were made for the peak demand months of June, July and August of 1977 and 1978 for supply and demand both with and without the scheduled lead phasedown. Turner, Mason and Solomon used an independent approach based on current technical capabilities of existing refineries and the lead times required to

install the equipment necessary to meet the scheduled lead phase-down.

The EPA consultant and the FEA concluded that, given the industry's present inability to produce sufficient high octane gasoline, enforcement of the promulgated phase-down schedule could result in a gasoline shortage of approximately 6.6% of demand (about 500 MBPCD) in 1977 and 9.0% (about 700 MBPCD) of demand in 1978 (comparable to the 6.7 to 8.8% experienced during the height of the 1974 embargo). The FEA consultant's analysis generally supported these conclusions although the use of slightly different assumptions regarding projected demand and imports yielded slightly different specific estimates of the potential shortages. Analyses performed by Bonner and Moore Associates, Inc. and by the Pace Company under contract to industry reach this same general conclusion, although there is no universal agreement as to the precise extent of the gasoline shortfall which may occur.

In 1979, however, when the promulgated schedule would require compliance with the final level of 0.5 gram per gallon, EPA's consultant indicates that sufficient octane production equipment could be installed by industry to be in compliance with that final level, based on the lead time constraints associated with equipment installation. According to Sobotka & Co., Inc., the marketplace would be capable of providing the necessary equipment and contractors to meet the demand of planning, procurement, and construction of the necessary octane producing facilities in 1979. As indicated above, Sobotka has concluded that it will be possible for refineries to attain compliance with the 0.5 gpg level in 24 to 36 months. Further, the EPA consultant indicates that no appreciable shutdown time would be experienced during the modification of existing facilities or the installation of new octane producing equipment. Upon review, the Agency has accepted these conclusions.

This discussion does not necessarily hold true for the small refiners (less than or equal to 30,000 BPCD of crude input) whose gasoline production comprises less than 2½ per cent of the U.S. total. Separate treatment of these small refiners with regard to the final lead level requirements is under active consideration. Possibilities being considered include making the final lead level requirement for such refiners 1.4 grams per gallon rather than 0.5 gram per gallon or permitting pooling (actual or on paper) by such small refiners with other refiners (large or small, for compensation to reach the 0.5 gram per gallon level. Any such change in the regulations affecting small refiners would be proposed in a separate action. EPA will announce a decision within 90 days of this publication regarding whether or not such a regulation change will be proposed.

Amendments to Enforcement Schedule

The time necessary to permit industry-wide achievement of the original schedule has been lost because of the litigation. There have existed many months during which, because of Court decisions, pending Court action, and resulting suspensions of enforcement by EPA, the future of the regulations was in doubt. Given the lack of high octane component production capacity in the refinery industry due to this uncertainty, EPA is left with the problem of determining how to achieve the 0.5 gram/gallon level on the earliest practicable schedule without causing a gasoline shortage comparable to the one the country has recently weathered with much difficulty. This amendment is promulgated to achieve that goal.

The amendment eliminates the interim phase-down levels prior to January 1, 1978, but provides a mechanism to assure that refiners will make steady progress toward meeting the ultimate lead reduction required by the original regulation. The amendment leaves in effect the 0.8 gram per gallon standard to begin January 1, 1978, and establishes the 0.5 gram per gallon requirement for the quarter beginning October 1, 1979. Meeting the 0.8 gpg standard may require the same amount of construction lead time as will be required to meet the 0.5 gpg standard, but leaving the 0.8 gpg standard in place and suspending it only if a refiner shows he is making progress toward achieving compliance will provide EPA with the necessary leverage to assure such progress. Suspension of the 0.8 gram per gallon standard is conditioned on a showing by a refiner that he has prior to that time taken and is continuing to take sufficient actions in procuring and installing equipment or arranging process and exchange agreements, or both, to insure compliance with the 0.8 gram per gallon standard at the earliest practicable date, and 0.5 gram per gallon no later than October 1, 1979. A construction schedule showing the sequence and respective dates of all key events in the construction process must be submitted to the Administrator by January 31, 1977, for each refinery which will not be able to achieve compliance with the 0.8 gram per gallon standard by January 1, 1978, and for which suspension of the standard is desired. If compliance will be achieved wholly or partially by means of process or exchange agreements, a schedule indicating the timeframe for entering and implementing each such agreement with a general description of each must be provided to the Administrator by January 31, 1977. To make a satisfactory showing that the refiner is taking sufficient actions to warrant suspension of the 0.8 gram per gallon standard, the refiner must meet the dates on any schedule submitted. If any milestone date that is submitted is not met, the refiner must notify the Administrator within 10 days of the missed event. The regulations also require reporting to the Administrator by December 31, 1976, if a refiner elects to achieve compliance with the standard on October 1, 1979, by reducing gasoline production or significantly changing the product mix at a refinery. In addition to these enumerated reporting requirements, the regulations authorize the Administrator to require from any refiner at any time after January 31, 1977, upon 30 days written notice, any documentation, information, or other evidence relevant to a determination of the good faith efforts of the refiner and its progress toward achieving compliance with the revised standards.

The extension of the final date to October 1, 1979, results from the up to 3 years lead time required to install necessary facilities. Since the demand for gasoline in the October–December and January–March quarters is less than in the summer quarters during which peak driving occurs, compliance may then be strictly enforced without the risk of creating gasoline shortages through unplanned-for curtailments of production. Noncompliance with the revised standards will be enforced with penalties assessed based on the degree and duration of lead levels in excess of the limit.

This amendment should eliminate any risk of gasoline shortages during 1977 and 1978 and beyond and their associated adverse economic impacts as a consequence of complying with this regulation. At the same time, the 1978 standard would allow for enforcement flexibility to assure steady progress toward meeting a 0.5 gpg standard no later than the quarter beginning October 1, 1979.

Public Comment

The Agency will consider public comments received within 30 days after the date of publication of these amendments. However, the Agency finds that good cause exists for omitting as impracticable and contrary to the public interest a notice of proposed rulemaking and opportunity for public comment prior to promulgation in addition to that received in response to the notice of July 9, 1976. The intent of these regulations is to achieve the desired reduction of lead in gasoline as expeditiously as practicable for protection of the public health without causing a gasoline shortage. The interim dates which are revoked by these amendments in large part served the purpose of enabling the Agency to insure that compliance with the lead limits in 1979 would be achieved. Because, as discussed above, these interim dates have been missed or rendered largely impracticable by the time lost to litigation, the Agency concludes that it is necessary to impose compliance schedule requirements to provide a similar mechanism for insuring compliance. Any period of delay for purposes of receiving prior comment will extend the period of industry uncertainty which has attended the litigious history of these regulations and has caused the delays in the original schedule. Any continuing uncertainty will likely result in further delays since the Administrator believes that the refining industry will not make the necessary commitments unless a firm compliance date is present now. Com-

ments, including three copies, should be submitted to the Director, Mobile Source Enforcement Division, Mail Code EN-340, 401 M Street, SW., Washington, D.C. 20460.

EFFECTIVE DATE

Due to the shortage of time before compliance with the October 1, 1976 date would be required, and for the reasons which are discussed in conjunction with the Agency finding that good cause exists for dispensing with a notice of proposed rulemaking and opportunity for public comment, the Agency finds that there is good cause to make these regulations effective upon publication.

Part 80, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows, effective on September 28, 1976.

Dated: September 24, 1976.

RUSSELL E. TRAIN,
Administrator.

In Part 80, Chapter I, Title 40 of the Code of Federal Regulations, § 80.20 is amended by revoking paragraphs (a)(1)(i), (ii) and (iii); redesignating and revising paragraphs (a)(1)(iv) and (v) as (a)(1)(i) and (ii) and by adding a new paragraph (a)(4) to read as follows:

§ 80.20 Controls applicable to gasoline refiners.

(a)(1) * * *

(i) 0.8 grams of lead per gallon, after January 1, 1978, except as provided in paragraph (a)(4) of this section.

(ii) 0.5 grams of lead per gallon after October 1, 1979.

* * * * *

(4)(i) The requirements of paragraph (a)(1)(i) with respect to any refinery will be suspended conditioned upon a showing by the refiner that it has prior to January 1, 1978, made and is continuing to make reasonable good faith efforts to achieve compliance with the requirement of (a)(1)(i) at the earliest practicable date after January 1, 1978, and compliance with the requirement of (a)(1)(ii) on or before October 1, 1979.

(ii) To make the showing required by paragraph (a)(4)(i), the refiner is required to demonstrate that it has taken and is continuing to take sufficient actions at that refinery including procuring and installing equipment or entering into process and exchange agreements, or both, to achieve compliance with paragraph (a)(1). A refiner must submit not later than January 31, 1977, a schedule for achieving compliance with (a)(1) at each of its refineries which will not comply with the 0.8 gram per gallon standard by January 1, 1978. The Administrator will determine whether a refiner's actions constitute reasonable good faith efforts by monitoring the refiner's adherence to that schedule.

(iii) If the refiner intends to achieve compliance with paragraph (a)(1) wholly or partially by means of construction, the compliance schedule required to be submitted shall set forth the sequence and respective dates of all key events in the construction process including completion of plans and engineering drawings, ordering of equipment, receipt of equipment, signing of construction and other necessary contracts, commencement and completion of various phases of work, commencement and completion of testing, and any other similar events or dates.

(iv) If the refiner intends to achieve compliance with paragraph (a)(1) wholly or partially through entering into and implementing process and exchange agreements, the compliance schedule required to be submitted shall describe the general content of such agreements and set forth the dates for entering into and implementing each such agreement.

(v) Where any refiner intends to achieve compliance with any provision of paragraph (a)(1) by any reduction in gasoline production, or by a significant change in product mix at that refinery, the refiner shall so notify the Administrator in writing by December 31, 1976. Such notification shall set forth by product the projected levels to be attained for each quarter during the period commencing January 1, 1978, and ending December 31, 1979, which would be attained under these regulations, and the corresponding levels which would be attained in the absence of these regulations.

(vi) The Administrator may require any refiner at any time after January 31, 1977, upon thirty days written notice, to submit such written reports, construction schedules, contracts, documents and other information and evidence as the Administrator deems relevant to a determination of compliance with this regulation.

(vii) A refiner shall notify the Administrator in writing within ten days after the failure of the refiner to meet any increment of progress on the compliance schedule submitted.

[FR Doc.76-28541 Filed 9-27-76;8:46 am]

proposed rules

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

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed New Specification for All Weather Pressure Sensitive Vinyl Tape

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue REA Bulletin 345–73 to announce a new REA Specification PE–68 for All Weather Pressure Sensitive Vinyl Tape. On issuance of REA Bulletin 345–73, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the new specification may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than October 28, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of the new REA Specification PE–68 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of the new REA Bulletin 345–73 announcing the issuance of the new specification is as follows:

REA BULLETIN 345–73

SUBJECT: REA SPECIFICATION FOR ALL WEATHER PRESSURE SENSITIVE VINYL TAPE

I. *Purpose.* To announce the issuance of a new REA Specification PE–68 for All Weather Pressure Sensitive Vinyl Tape.

II. *General.* REA Specification PE–68 provides performance criteria for pressure sensitive vinyl tapes used in the construction of REA borrowers' telephone systems. It becomes effective immediately upon issuance.

III. *Availability of specification.* Copies of the new PE–68 will be furnished by REA upon request. Questions concerning the new specification may be referred to the Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202–447–3827.

Dated: September 20, 1976.

C. R. BALLARD,
Assistant Administrator—Telephone.

[FR Doc.76–28167 Filed 9–27–76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 102]

[Docket No. 76P–0330]

INFANT AND JUNIOR FOODS

Establishment of Common or Usual Name; Correction

In FR Doc. 76–26010 appearing at page 37593 in the FEDERAL REGISTER of Tuesday, September 7, 1976, the following correction is made: In § 102.26(a) on page 37595, the cross-reference to "§ 102.1(e)" is changed to read "§ 102.1 (a)."

Dated: September 21, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76–28286 Filed 9–27–76;8:45 am]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

[41 CFR Parts 60–1, 60–2, 60–5, 60–8]

EQUAL EMPLOYMENT OPPORTUNITY

Proposed Rulemaking

Correction

In FR Doc. 76–27432, appearing as the Part VI, at page 40340 in the issue of Friday, September 17, 1976, in the third column on page 40349, in § 60–1.13 *Foreign government practices*, after the nineteenth line, add the following: "performed. Should any contractor be"

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[PP4F1518/P34; FRL 624–2]

THIABENDAZOLE

Proposed Tolerances for the Pesticide on Wheat Grain

On July 24, 1974, the Environmental Protection Agency (EPA) gave notice that Merck, Sharp & Dohme, Div. of Merck & Co., Inc., Rahway, N.J. 07065, had filed a pesticide petition (PP 4F1518). This petition requested that 40 CFR 180.242 be amended by the establishment of a tolerance for residues of the fungicide thiabendazole (2-(4-thiazoyl) benzimidazole) at 0.1 part per million (ppm) in or on the raw agricultural commodity wheat grain which is grown from seed treated with thiabendazole.

Merck, Sharp & Dohme subsequently amended the petition by proposing that an additional tolerance for residues of thiabendazole be established in or on the raw agricultural commodity wheat straw at 0.2 ppm.

The data submitted in the petition and all other relevant material have been evaluated, and the pesticide is considered to be useful for the purpose for which the tolerances are sought. There is no reasonable expectation of residues in eggs or the meat, fat, and meat byproducts of poultry, as delineated in 40 CFR 180.6(a)(3), and any residues occurring in milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep from this use of the pesticide are adequately covered by existing tolerances, as set forth in 40 CFR 180.6(a)(2). Because this petition was amended by the addition of a second tolerance proposal to that one announced in the July 24, 1974 FEDERAL REGISTER notice, the establishment of the 0.1 ppm tolerance in or on wheat grain and the 0.2 ppm tolerance in or on wheat straw is being proposed at this time to provide an opportunity for public comment. The Agency has determined that the tolerances established by amending 40 CFR 180.242 will protect the public health, and it is proposed, therefore that the tolerances be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, within 10 days after publication in the FEDERAL REGISTER, that this proposal be referred to an advisory committee pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation to the FEDERAL REGISTER Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., East Tower, Rm. 401, Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before October 8, 1976, and should bear a notation indicating the subject "PP4F1518/P34". All written comments filed in re-

sponse to this rulemaking proposal will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

The comment period and the period in which an advisory committee may be requested have been reduced from 30 days to 10 days, pursuant to 5 U.S.C. 553(d)(3), to facilitate the use of this pesticide on wheat within the fall planting season, thereby reducing the likelihood of a reduced crop yield of winter wheat in the Pacific Northwest due to dwarf bunt, a disease for which thiabendazole is the only effective treatment.

Dated: September 23, 1976.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

It is proposed that Part 180, Subpart C, Section 180.242 be revised by adding tolerances of 0.1 ppm for residues of thiabendazole in or on wheat grain and 0.2 ppm in or on wheat straw and by editorially reformatting the section into an alphabetized tabular listing, to read as follows:

§ 180.242 Thiabendazole; tolerances for residues.

(a) Tolerances are established for residues of the fungicide thiabendazole (2-(4-thiazolyl) benzimidazole) in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Apples (post-h)	10
Bananas (post-h)	3
Bananas, pulp (post-h)	0.4
Beets, sugar, without tops (pre-h)	0.25
Beets, sugar, tops	10
Citrus fruits (post-h)	10
Pears (post-h)	10
Potatoes (pre & post-h)	3
Squash, Hubbard	1
Wheat, grain	0.1
Wheat, straw	0.2

(b) Tolerances are established for combined residues of thiabendazole and its metabolite 5-hydroxythiabendazole in the following raw agricultural commodities:

Commodity:	*Parts per million*
Cattle, fat	0.1
Cattle, mbyp	0.1
Cattle, meat	0.1
Goats, fat	0.1
Goats, mbyp	0.1
Goats, meat	0.1
Hogs, fat	0.1
Hogs, mbyp	0.1
Hogs, meat	0.1
Horses, fat	0.1
Horses, mbyp	0.1
Horses, meat	0.1
Milk	0.1
Sheep, fat	0.1
Sheep, mbyp	0.1
Sheep, meat	0.1

[FR Doc.76-28505 Filed 9-27-76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[Public Notice 501]

DEPARTMENT OF STATE

INTERNATIONAL WORKING GROUP ON THE ABATEMENT AND CONTROL OF POLLUTION FROM DREDGING ACTIVITIES

Availability of Report

The Department of State hereby gives notice that the report of the International Working Group on the Abatement and Control of Pollution from Dredging Activities, prepared by a Joint Canada-United States Working Group, is available for review and comment. This report, which is presently under review by both governments, was prepared under the terms of the Agreement on Great Lakes Water Quality, signed April 15, 1972.

Copies of the report may be obtained by contacting Mr. Conrad O. Kleveno, Office of International Activities, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-8712.

Interested persons may submit their comments in writing to Mr. Herbert Spielman, Office of Environmental Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Room 7822, Washington, D.C. 20520, on or before November 24, 1976. All comments received will be considered prior to completion of the review by the U.S. Government.

Dated: September 20, 1976.

HERBERT SPIELMAN,
Acting Director,
Office of Environmental Affairs.

[FR Doc.76-28325 Filed 9-27-76;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[TMK-2-R:E:R]

RECORDATION OF TRADE NAME TEN PRO

Application

Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name TEN PRO used by Ten Pro Corporation, a corporation organized under the laws of the State of Pennsylvania, located at 26 Portland Rd., W. Conshohocken, Pennsylvania 19428.

The application states that the trade name is applied to sporting goods, manufactured in the United States. The application states further that no foreign person, partnership, association or corporation is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received on or before October 28, 1976.

Notice of the action taken on the application for recordation of the trade name will be published in the FEDERAL REGISTER.

LEONARD LEHMAN,
Assistant Commissioner,
Regulations and Rulings.

SEPTEMBER 20, 1976

[FR Doc.76-28265 Filed 9-27-76;8:45 am]

Internal Revenue Service

PRIVACY ACT OF 1974

Proposed Establishment of a New System of Records

In accordance with the requirements of the Privacy Act of 1974, subsection (o), 5 U.S.C. 552a(o), the Internal Revenue Service (IRS) proposes the establishment of a new system of records titled "Treasury/Internal Revenue Service 22.062", containing information on taxpayers who file returns for Individual Retirement Savings Arrangement (Form 5329).

The reason for creating this new system of records is to implement and administer the Employee Retirement Income Security Act of 1974 (Public Law 93-406; 88 Stat. 824).

Notice of this proposal was filed on January 20, 1976, with the Senate, the House of Representatives, the Office of Management and Budget, and the Privacy Protection Study Commission.

Any interested person may submit written data, views, objections, or arguments on this proposed new system to the Acting Department Disclosure Officer, Office of Administrative Programs, United States Department of the Treasury, 1331 G Street NW, 3rd. floor, Washington, D.C. 20220 on or before the date of this publication. All written comments received from the public by then will be considered by the Department before taking action on a final notice of adoption. Comments received will also be available for public inspection at the above address between the hours of 9:00 a.m. and 5:30 p.m., Mondays through Fridays, except public holidays. Further information is available by telephone at (202) 964-2792.

Dated: September 20, 1976.

WARREN F. BRECHT,
Assistant Secretary (Administration).

TREASURY/INTERNAL REVENUE SERVICE
22.062

System name. Individual Retirement Account File (IRAF); ACTS:R—Treasury/IRS.

System location. National Computer Center (NCC), Martinsburg, West Virginia.

Categories of individuals covered by the system. Taxpayers who file a Return for Individual Retirement Savings Arrangement (Form 5329).

Categories of records in the system. Name, address, social security number, and other identifying data pertaining to filers; information related to Individual Retirement Account transactions such as number of annuities, distributions, abatements of tax, interest, and similar transactions.

Authority for maintenance of the systems. Employee Retirement Income Security Act of 1974, Section 2002 (Public Law 93-406, 88 Stat. 824). Use of the social security account number is authorized by Executive Order 9397, November 22, 1943.

Routine uses of records maintained in the system including categories of users and purposes of such uses. Routine disclosure of information contained in this system of records may be made to: 1. The Department of Justice in connection with actual or potential criminal prosecution of civil litigation, and in connection with requests for legal advice.

2. Other agencies to the extent provided by law or regulation (including 26 U.S.C. Section 6103 and 26 CFR 301.6103) and as necessary to report apparent violations of law to appropriate law enforcement agencies.

3. The Social Security Administration of the Department of Health, Education and Welfare, or to the Railroad Retirement Board to assist in the administration of the Social Security Act, the Railroad Retirement Act, and related acts.

4. States, the District of Columbia, the Commonwealth of Puerto Rico, or possessions of the United States to assist in the administration of tax laws. Disclosures may be made during judicial processes.

For additional routine uses, see Appendix AA, 40 *Federal Register* 56419-56420, December 2, 1975.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage. Paper (The Form 5329 submitted by the filer) and magnetic tape.

Retrievability. Records are retrieved by Social Security account number and name.

Safeguards. Safeguards not less than provided by the Physical and Document Security Handbook, Internal Revenue Manual 1(16)41.

Retention and disposition. (1) Original Form 5329 submitted by filer: Destroyed seven years after filing, numbering, or processing, with the tax return (Form 1040 and its attachments); Records Schedule 206, item 56 (Internal Revenue Manual 1(15)59-206, item 56).

(2) Electronic Data Processing Record (magnetic tape, or "computer", record): Disposition not yet authorized. A proposed disposition is in the course of preparation and submission to the National Archives and Records Service. It is anticipated that such records will be erased no later than seven years after the individual account is closed.

System managers and addresses. Official prescribing policies and practices—Assistant Commissioner—(ACTS). Officials maintaining the system—Directors, Internal Revenue Service Centers. See IRS Appendix A, 40 Federal Register 56143-56145, December 2, 1975, for addresses.

Notification procedure. An individual seeking to determine if the system of records contains a record pertaining to himself may inquire in accordance with instructions appearing at 31 Code of Federal Regulations, Part 1, Subpart C, Appendix B (or at 40 Federal Register 45711-45715, October 2, 1975). Inquiries should be addressed to the Director of the Internal Revenue Service Center for the area in which the individual resides, see "System Managers and Addresses", above.

Record access procedures. An individual seeking access to any record contained in the system of records may inquire in accordance with the instructions cited in "Notification Procedure", above. Inquiries should be addressed to the Director of the Internal Revenue Center for the area in which the individual resides, see "System Managers and Addresses", above.

Contesting record procedures. (1) Matters subject to the amendment provisions of the Privacy Act: An individual seeking to contest may inquire in accordance with the instructions cited in "Notification Procedure", above. Inquiries should be addressed to the Director of the Internal Revenue Service Center for the area in which the individual resides, see "System Managers and Addresses", above.

(2) Matters not subject to the amendment provisions of the Privacy Act: An individual seeking to adjust records which affect the determination of a tax assessment or the balance due should use existing procedures, as substantive tax matters are not subject to the Act's amendment provisions. A brief summary of these procedures may be found in paragraph (b) of the instructions cited in "Notification Procedure", above (40 FR 45712, October 2, 1975).

Record source categories: Individual Retirement Account return filings made by the individual; agency entries made in the administration of the individual's account.

[FR Doc.76-27992 Filed 9-27-76;8:45 am]

Office of the Secretary

[Supplement to Dept. Circular; Public Debt Series—No. 23-76]

TREASURY NOTES OF SERIES R-1978

Interest Rate

SEPTEMBER 22, 1976.

The Secretary of the Treasury announced on September 21, 1976, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 23-76, dated September 14, 1976, will be 6¼ percent per annum. Accordingly, the notes are hereby redesignated 6¼ percent Treasury Notes of Series R-1978. Interest on the notes will be payable at the rate of 6¼ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.76-28256 Filed 9-27-76;8:45 am]

[Legal Division Order No. 9]

ASSISTANT GENERAL COUNSEL (ENFORCEMENT, OPERATIONS AND TARIFF AFFAIRS)

Delegation of Authority; Order of Succession

By virtue of the authority vested in me as General Counsel the following officials, in the order of succession enumerated herein, are hereby authorized and directed to act as General Counsel and to perform all the functions of that office during the absence or disability of the General Counsel and the Deputy General Counsel:

1. Assistant General Counsel (Enforcement, Operations and Tariff Affairs);
2. Assistant General Counsel (Administration, Legislation and Fiscal Operations);
3. Assistant General Counsel (International Affairs).

Effective date: September 21, 1976.

RICHARD R. ALBRECHT,
General Counsel.

[FR Doc.76-28351 Filed 9-27-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Cancelled Meeting

SEPTEMBER 20, 1976.

The USAF Scientific Advisory Board Science and Technology Advisory Group, Air Force Systems Command, meetings scheduled for September 30-October 1, 1976 published in the FEDERAL REGISTER on September 10, 1976, Volume 41, FR Doc. 76-38527 have been cancelled.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 76-28320 Filed 9-27-76; 8:45 am]

DRAFT ENVIRONMENTAL STATEMENT

Public Hearing

SEPTEMBER 27, 1976.

Informal public hearings will be held for the purpose of solicitiing comments from the public on the draft environmental impact statements for the proposed closure of Kinicheloe Air Force Base (AFB), Michigan, and the proposed reduction of Loring AFB, Maine. The closure of Wurtsmith AFB, Michigan, is an alternative to both of the proposed candidate actions. In the event that the Wurtsmith AFB closure is selected in lieu of either of the proposed candidate actions, the natural environment should improve due to the decrease in aircraft operations. The socioeconomic impacts, however, could be severe in the areas of unemployment, housing vacancy, school enrollments, and funding. A hearing is scheduled to be held in the Wurtsmith AFB vicinity on 13 October 1976 with the option to continue on the 14th of October, as determined by the Presiding Officer. Draft Environmental Impact Statements (DEIS) for these proposed actions were filed with the Council on Environmental (CEQ) on 3 September 1976.

Copies are available from:

379BMW/OI, Wurtsmith AFB, Michigan 48753

Special Assistant for Environmental Quality (SAF/ILE), The Pentagon, Room 4C885, Washington, DC 20330.

In addition, copies of the DEIS have been placed in the following locations for public reference:

Oscoda Township Library, 110 So. State Street, Oscoda, Michigan 48750.

Tawas City Library, Tawas City, Michigan 48763.

Base Library, Building 455, Wurtsmith AFB, Michigan 48753.

Oscoda-Au Sable Chamber of Commerce, 100 W. Michigan, Oscoda, Michigan 48750.

Tawas Area Chamber of Commerce, 402 Lake Street, Tawas City, Michigan 48763.

Oscoda Township Supervisor, 110 S. State Street, Oscoda, Michigan 48750.

Office of the Mayor, 120 W. Westover, East Tawas, Michigan 48730.

Alcona County Coordinator, County Building, Harrisville, Michigan 48740.

The presiding Officer will be Col Harold W. Gardner, Chief Trial Judge, USAF Trial Judiciary, Forrestal Building, Washington, DC 20314, telephone (202) 693-5810.

The following procedures will be followed during the informal public hearings. Individual speakers will be limited to five minutes, with ten minutes for a group spokesman. There will be no relinquishing of time by one speaker to another. Written statements, in addition to or in lieu of oral presentations will be accepted. The closing date for including written communications in the hearing record is five days after date of public hearing. Submit written communications to the 379BMW/OI, Wurtsmith AFB, Michigan.

The informal public hearing for the Wurtsmith AFB vicinity will be held at the following specific time and place:

7:00 p.m.–10:00 p.m., 13 October 1976, Oscoda Area High School Auditorium, Oscoda, Michigan, with option to continue at 7:00 p.m. at the same loaction on 14 October 1976.

Any changes to this notice will be publicized in the local news media.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.76–28547 Filed 9–27–76;9:55 am]

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of Section 10 of Public Law 92–463, effective January 5, 1973, notice is hereby given that a closed meeting of a Panel of the DIA Scientific Advisory Committee will be held as follows:

Thursday, 21 October 1976—Pomponio Plaza, Rosslyn, Virginia.

The entire meeting commencing at 0900 hrs. is devoted to the discussion of classified information as defined in Section 552(b)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter is to work on a study of specialized intelligence assessments regarding the capabilities and use of emerging weapons systems.

Dated: September 23, 1976.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

[FR Doc.76–28328 Filed 9–27–76;8:45 am]

Department of the Navy

BOARD OF ADVISORS TO THE SUPERINTENDENT, NAVAL POSTGRADUATE SCHOOL

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Board of Advisors to the Superintendent, Naval Postgraduate School will meet on November 11 and 12, 1976, in the mezzanine conference room of the Naval Postgraduate School, Monterey, California. Sessions of the meeting will commence at 8:00 a.m. and terminate at 5:30 p.m.

The Board was appointed to advise and assist the Superintendent concerning the Naval Postgraduate School Education Program. A short report by the Superintendent and discussions concerning the objectives and implementation of new Department of Defense directives and the Chief of Naval Operations policy on graduate education are scheduled. In addition, the implications of austere budgeting, the Chief of Naval Education and Training and Naval Postgraduate School discussions of August 1976, status report on Continuing Education, and progress of action items as recommended by the Department of Defense Committee on Excellence in Education and the Navy Graduate Education Select Study Committee will be discussed.

Dated: September 21, 1976.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc.76–28264 Filed 9–27–76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 28797]

NEW MEXICO

Application

SEPTEMBER 20, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for two 4½-inch natural gas pipeline rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 26 N., R. 2 W.,
Sec. 8, S½S½;
Sec. 17, NW¼NW¼ and NW¼NE¼.

These pipelines will convey natural gas across .747 of a mile of national resource land in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, PO Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76–28270 Filed 9–27–76;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (P.L. 93–205).

Applicant: James Everett Fouts, 2444 Somerset, Wichita, Kansas 67204.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Give date if any) — IMPORT OR EXPORT LICENSE [ ] PERMIT [X]

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To purchase through interstate commerce the following pheasants from Mr. Charles Sivelle, 41 Westcliff Drive, Dix Hills, New York, 11746; to be maintained for the purpose of captive propagation. 1 male, 1 female Brown-eared (Crossoptilon mantichuricum), 1 male, 1 female White-eared (Crossoptilon crossoptilon), 1male,1 female Edwards (Lophura edwardsi), 1male 1 female Mikado (Syrmaticus mikado) 1 male, 1 female Bar-tailed (Syrmaticus humiae).

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
James Everett Fouts
2444 Somerset
Wichita, Kansas 67204
316-838-8339

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[X] MR. [ ] MRS. [ ] MISS [ ] MS.
HEIGHT 5'9" WEIGHT 145
DATE OF BIRTH 6/21/53
COLOR HAIR brown COLOR EYES brown
PHONE NUMBER WHERE EMPLOYED 316-942-2212
SOCIAL SECURITY NUMBER 510-60-2562
OCCUPATION Zoo Keeper

IF "APPLICANT" IS A BUSINESS, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OF KIND OF BUSINESS, AGENCY, OR INSTITUTION
n.a.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
none

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
n.a.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
n.a.

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
2444 Somerset
and/or
2007 W. 53rd North
Wichita, Kansas 67204

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [ ] YES [X] NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [ ] YES [X] NO
(If yes, list jurisdictions and type of document)
none required

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ n.a.

10. DESIRED EFFECTIVE DATE date of issuance

11. DURATION NEEDED 1 year

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.23

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) James E. Fouts — DATE 7/20/76

3-200 (5/74) GPO 895-042

ATTACHMENT 17.33 TO ENDANGERED SPECIES PERMIT REQUEST

(1) The applicant is making this request for an "Endangered Species" permit to purchase through interstate commerce the below listed pheasants from Mr. Charles Sivelle, 41 Westcliff Drive, Dix Hills, New York 11746 in conjunction with the Endangered Species Act of December 28, 1973.

(1) 1 pair Brown-eared pheasants (*Crossoptilon mantichuricum*).

(2) 1 pair White-eared phasants (*Crossoptilon crossoptilon*).

(3) 1 pair Bar-tailed pheasants (*Syrmaticus humiae*).

(4) 1 pair Mikado pheasants (*Syrmaticus mikado*).

(5) 1 pair Edwards pheasants (*Lophura edwardsii*).

Numbers 1 and 2 are breeders and 75 hatch respectively, while the remaining birds are 1976 hatch.

(2) A tentative letter is enclosed.

(3) The applicant is requesting authorization to purchase the above pheasants for propagational purposes. It is hoped that these birds can be propagated and their progeny distributed to other qualified breeders thereby contributing to the captive self-sustaining population within the United States and also in doing so enhance their overall chances for survival. The applicant also contends that this will better the probability of reintroduction into their natural habitats when environmental and political situations will allow such action. The applicant hopes to participate in restocking efforts if and when they do occur.

Upon termination of my breeding project, those birds covered by the permit as well as those that are not will be distributed among qualified breeders of those species concerned and/or be placed in the trust of the World Pheasant Association.

(4) The area where the pheasants will be maintained is located at 2444 Somerset and/or 2007 W. 53rd North, Wichita, Kansas, 67204. The former is the applicant's residence while the latter is where the majority of his pheasants are maintained. The avaries located on 53rd Street are where the birds covered by this permit will be housed. It is a 2 acre lot with densely planted trees to afford shade and seclusion. Someone also resides at this location and oversees the collection in the applicant's absence.

(5) All birds concerned were hatched in captivity in the collection of Mr. Charles Sivelle of 41 Westcliff Drive, Dix Hills, New York, 11746.

(6) n.a.

(7) The pheasants will not be imported but obtained in the U.S. as mentioned above, however the applicant feels that to answer the question listed below would be to his advantage.

(i) A diagram has been provided.

(ii) 2 years experience raising pheasants privately. The applicant now keeps 11 species of pheasants and this past breeding season successfully bred and raised all 7 of those species capable of reproduction, including the rare Palawan peacock pheasant and the Gray peacock pheasant. A total of 87 chicks were raised from the 7 species bred this hatching season.

2. Over 4 years experience in an approved zoo where experience has been gained in the husbandry of a variety of birds and animals. (Sedgwick County Zoo, 5555 Zoo Boulevard, Wichita, Kansas 67212.) The applicant is currently employed there.

3. Member of the World Pheasant Association.

4. Member of the American Pheasant and Waterfowl Society.

5. Member of the Game Bird Breeders Cooperative Federation.

6. Member of the American Association of Zoological Parks and Aquariums.

(iii) The applicant is quite willing to participate in all breeding programs and has already done this with several pheasants which are not endangered. The applicant is also eager to cooperate in the establishment of studbooks for endangered pheasants and is currently acting in an advisory capacity to the World Pheasant Association in regard to the establishment of a Studbook for the Edward pheasant. The applicant is currently maintaining a studbook on the Clouded Leopard for the IUCN and as a result fully realizes the importance of studbooks in the proper captive management of an endangered species.

(iv) The pheasants will be individually crated in light wooden crates measuring approximately 24 x 12 x 18 inches. All birds will be shipped non-stop from New York to Wichita and will be crated no more than 18 hours. Feed and water will be provided.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT 2-335-07; please refer to this number when submitting comments. All relevant comments received on or before October 28, 1976 will be considered.

Dated: September 23, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-28369 Filed 9-27-76;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (P.L. 93-205):

Applicant: National Fish and Wildlife Laboratory, National Museum of Natural History, 10th & Constitution Avenue, NW., Washington, D.C. 20560, Dr. Clyde Jones, Director; Michael A. Bogan, Acting Director.

OMB NO. 42-R1870

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Check one only)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Permit for the incidental take of Myotis grisescens (Gray Bat) and Myotis sodalis (Indiana Bat) in the course of collecting other species not under the Endangered Species Act.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
National Fish and Wildlife Laboratory
National Museum of Natural History
10th and Constitution Avenue, N.W.
Washington, D.C. 20560

Phone: 381-5161

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

	HEIGHT	WEIGHT
☐ MR. ☐ MRS. ☐ MISS ☐ MS.		
DATE OF BIRTH	COLOR HAIR	COLOR EYES
PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER	
OCCUPATION		

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
The National Fish and Wildlife Laboratory is a research unit of the U.S. Fish and Wildlife Service

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
U.S. Fish and Wildlife Service

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Clyde Jones, Director Ph: 381-5161

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Osceola National Forest, Florida

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number(s))
PRT-6-97-I in effect through 12/31/77

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE: September 1976

11. DURATION NEEDED: December 1977

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.22(a) Permits for scientific purposes or for the enhancement of propagation or survival

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Acting Director — DATE 16 Aug 1976

3-200 (6/74) Michael A. Bogan GPO 895-042

17.22(a)

(1) *Myotis sodalis*, Indiana bat; *Myotis grisescens*, Gray bat. The number, sex, and age of specimens of these species taken is impossible to state. The activity sought to be authorized is the incidental capture and subsequent release of specimens taken during research on the effects of phosphate mining leases on the endangered species of the Osceola National Forest, the salvaging of dead specimens, and the transport of salvaged specimens.

(2) The wildlife sought to be covered is still in the wild.

(3) The bat fauna of this area will be sampled with "mist nets" and during this sampling it is possible that individuals of these two species may be taken. Such individuals will be released, no bats will be purposely killed, nor will they be banded or otherwise marked.

(4) Not applicable.

(5) Salvaged specimens will be sent to the National Museum of Natural History, Washington, D.C. 20560.

(6) Not applicable. No wild animals covered by this permit will be maintained in captivity, nor will any be purposely killed.

(7) Persons engaging in this study will be employees of the National Fish and Wildlife Laboratory, U.S. Fish and Wildlife Service. The period of study is from September 1976 to December 1977.

(8) The study is designed to ascertain the effects of phosphate mining leases on the endangered species of the Osceola National Forest, Florida. This involves assessing the composition and abundance of vertebrate populations in this area. Bats will be sampled with mist nets; it is possible that some individuals of the above two species may be taken. Such individuals would be released unharmed, following the recording of data on species, sex, and age. Dead or salvaged bats would be transported to the National Museum where they would be available for subsequent study. This study will hopefully assess the possible effects of mining on endangered species in this area and provide sound management information in the event of such mining. These aims are in keeping with the mission of the U.S. Fish and Wildlife Service in protecting and conserving wildlife.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT 2-346-07; please refer to this number when submitting comments. All relevant comments received on or before October 28, 1976.

Dated September 23, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-28368 Filed 9-27-76;8:45 am]

Geological Survey

KNOWN COAL LEASING AREAS BECOME KNOWN RECOVERABLE COAL RESOURCE AREAS

Competitive Leasing

Prior to enactment of the Federal Coal Leasing Amendments Act of 1975 on August 4, 1976, 21 known coal leasing areas involving about 9,674,396 acres in the States of Colorado, Montana, North Dakota, Utah, and Wyoming had been classified for competitive leasing and published in the FEDERAL REGISTER. Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 203 Departmental Manual 1, and Secretary's Order No. 2948, Federal lands within these 5 States were classified as subject to the competitive coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201).

The Federal Coal Leasing Amendments Act of 1975 eliminated the prospecting and preference right lease provisions of the Mineral Leasing Act of 1920 with respect to coal. Section 2(a)(1) of the amended Act requires that Federal lands be classified for coal leasing and that leases be awarded only by competitive bidding. Section 8A of the amended Act requires obtaining sufficient data to evaluate the extent, location, and potential

for developing commercial quantities of the known recoverable coal resources within the Federal lands subject to leasing under this Act. Inasmuch as land previously classified as Known Coal Leasing Areas (KCLA's) required a determination of existence and workability (physical recoverability) of coal, such lands are now judged to be the equivalent of the known recoverable coal resource lands which are to be evaluated in accordance with Section 8A(a) of the Mineral Leasing Act of February 25, 1920, as amended by the Federal Coal Leasing Amendments Act of 1975.

Therefore, the following areas previously classified as KCLA's are hereby classified for coal leasing as Known Recoverable Coal Resource Areas (KRCRA's) pursuant to the authority of the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 203 Departmental Manual 1, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1975 (P.L. 94-377, August 4, 1976).

(6) *Colorado*

Paonia—Somerset; 215,867 acres, FEDERAL REGISTER, Jan. 29, 1974, p. 3693. Danforth Hills; 130,388 acres, FEDERAL REGISTER, Feb. 13, 1974, p. 5522. Yampa; 434,364 acres, FEDERAL REGISTER, Feb. 13, 1974, p. 5522. Nucla; 5,143 acres, FEDERAL REGISTER, June 29, 1976, p. 26725. Durango; 238,635 acres, FEDERAL REGISTER, July 2, 1976, p. 27405. Cimarron Ridge; 20,820 acres, FEDERAL REGISTER, July 23, 1976, p. 30358. East Cortez; 9,672 acres, FEDERAL REGISTER, July 2, 1976, p. 27405.

(26) *Montana*

Powder River Basin; 2,256,576 acres, FEDERAL REGISTER, Jan. 17, 1974, p. 2117. Wibaux—Beach; 124,048 acres, FEDERAL REGISTER, Feb. 7, 1974, p. 4790. Burns Creek—Thirteen Mile Creek; 197,355 acres, FEDERAL REGISTER, June 24, 1974, p. 22442.

(34) *North Dakota*

Williston—Avoca; 65,304 acres, FEDERAL REGISTER, March 28, 1975, p. 14105.

(44) *Utah*

Henry Mountains; 40,913 acres, FEDERAL REGISTER, Feb. 7, 1974, p. 4790. Kaiparowits Plateau; 530,805 acres, FEDERAL REGISTER, July 9, 1974, p. 25243. Wasatch Plateau; 296,840 acres, FEDERAL REGISTER, Aug. 29, 1974, p. 31542-3. Book Cliffs; 129,388 acres, FEDERAL REGISTER, Aug. 21, 1974, p. 30170.

(50) *Wyoming*

Powder River Basin; 3,951,486 acres, FEDERAL REGISTER, Oct. 1, 1973, p. 27230. Hanna and Carbon; 222,711 acres, FEDERAL REGISTER, Jan. 29, 1974, p. 3693. Kemmerer; 263,024 acres, FEDERAL REGISTER, June 3, 1974, p. 19511. Rock Springs; 416,834 acres, FEDERAL REGISTER, Nov. 8, 1974, p. 39587. Grass Creek; 1,360 acres, FEDERAL REGISTER, Jan. 28, 1975, p. 4168. Rawlings; 122,913 acres, FEDERAL REGISTER, June 29, 1976, p. 26725-26.

W. R. RADLINSK,
Acting Director.

Dated: September 17, 1976.

[FR Doc.76-38322 Filed 9-27-76;8:45 a.m.]

Office of Hearings and Appeals

[Docket No. M 76-210]

THREESOME COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Threesome Coal Company has filed a petition to modify the application of 30 CFR 75-1710 to its Mine No. 9, located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.-1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner mines coal from the Broage coal seam which varies from 29 to 46 inches in height.

2. Petitioner owns one 11 RU Joy cutting machine which is 38 inches high and for which he is requesting a modification of this regulation. Petitioner also owns one 14 BU loading machine and two 6 SC shuttle cars.

3. The cutting machine must be raised at least 6 inches to guide it from a straight line to an angle. This lifting cannot be accomplished with the canopy in place because the canopy strikes the top of the mine. The canopy strikes the top in other places and bends down on the operator. With the canopy installed, the equipment operator cannot safely see in front of him.

4. The canopy catches on roof bolts and causes the roof to fall on the operator.

5. Petitioner's equipment operators refuse to have these canopies placed over them because of the dangerous conditions they create.

6. Enforcement of this regulation causes unsafe conditions and Petitioner requests that it be exempted from such enforcement.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 28, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearing Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

SEPTEMBER 16, 1976.

[FR Doc.76-28273 Filed 9-27-76;8:45 am]

Office of Hearings and Appeals

[Docket No. M 76-234]

SHELL COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970). Shell Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its Mine 7C, located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with §75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. This petition is in reference to canopies on haulage equipment (mine tractors), loading machines, roof bolting machine and cutting machine.

2. This mine is in the Clintwood seam and the thickness of the seam is not consistent due to rolls in the bottom and small hills inside the mine. The seam thickness is from 33 to 42 inches.

3. It would be impossible to remove this equipment to the outside without removing the canopies or placing the canopies at the lowest height in the mine. The mine tractor operators would be placed in danger due to the different heights of the coal. The canopies would hang up on roof bolts and headers due to any number of reasons, especially spilled coal lost in haulage.

4. Installing a canopy on a piece of equipment in low coal will reduce the vision of the operator of that particular piece of equipment to the point where he would be in danger and other workmen in the mine would be subject to injury from the moving equipment.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 28, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: September 17, 1976.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.76-28323 Filed 9-27-76;8:45 am]

[Docket No. M 76-203]

SUZY Q COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Suzy Q Coal Co., Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its No. 10 Mine, located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner feels that installing canopies on the haulage equipment in this mine would create a hazard to the equipment operators.

2. Petitioner's haulage equipment consists of two (2) tractors and one (1) scoop. Unlike equipment made today, this equipment was not designed to have canopies installed. Petitioner also has one (1) bolting machine.

3. The Suzy Q No. 10 Mine is in the No. 1 Elkhorn seam which ranges from 42 to 52 inches in height. Petitioner is constantly running into ascending and descending grades in this seam, resulting in dips in the coalbed. Installation of canopies on the tractors limits the vision of the operators of the equipment, creating a hazard to them as well as to the other employees in the mine.

4. Petitioner feels that since the shuttle car operators' vision is limited and since their position in the decks is cramped with the canopies installed, that canopy installation could be a contributing factor in any accidents that may arise.

5. The employees at the mine have refused to operate equipment with canopies installed.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 28, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: September 17, 1976.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc. 76-28324 Filed 9-27-76; 8:45 am]

National Park 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 National Park Service before Sept. 17, 1976. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by October 8, 1976.

JERRY L. ROGERS,
Acting Director, Office of Archeology and Historic Preservation.

ALABAMA

Tuscaloosa County

Tuscaloosa, *Alabama Insane Hospital*, University Blvd.

ALASKA

Bristol Bay Division

Nondalton vicinity, *Kijik*, E of Nondalton at Lake Clark and Kijik River.

Cordova-McCarthy Division

Kennecott vicinity, *Kennecott Mines*, SE of Kennicott Glacier on N. bank of National Creek.

COLORADO

Chaffee County

Buena Vista vicinity, *Vicksburg Mining Camp*, 15 mi. N of Buena Vista on SR 390.
Buena Vista vicinity, *Winfield Mining Camp*, 15 mi. NW of Buena Vista on SR 390.

GEORGIA

Fulton County

Atlanta, *Dixie Coca-Cola Bottling Company Plant*, 125 Edgewood Ave.
Atlanta, *Hurt Building*, 45 Edgewood Ave., NE.

Oglethorpe County

Lexington, *Lexington Historic District*, U.S. 78.

Walker County

Kensington vicinity, *Morgan Brick House*, 1 mi. W of Kensington off GA 193.

IOWA

Des Moines County

Burlington, *Burlington and Missouri River Railroad Passenger Station*, 237 S. 4th St.

Mitchell County

St. Ansgar, *First Lutheran Church*, 212 N. Main St.

KANSAS

Sedgwick County

Wichita, *Arkansas Valley Lodge No. 21*, 615 N. Main St.

NEW YORK

Dutchess County

Beacon, *Brett, Madam Catharyna, Homestead*, 50 Van Nydeck Ave.

New York County

New York, *LaGrange Terrace*, 428–434 Lafayette St.
New York, *Mooney, Edward, House*, 18 Bowery.

Queens County

Ridgewood, *Vander Ende Onderdonk House Ruins*, 1820 Flushing Ave.

OREGON

Clackamas County

Carver vicinity, *Baker, Horace, Log Cabin*, S of Carver off OR 224 at jct. of Redland and Forsythe Rds.

Wasco County

The Dalles, *First Wasco County Courthouse*, 404 2nd St.
The Dalles, *Indian Shaker Church and Gulick Homestead*, jct. U.S. 80 and 197.

PENNSYLVANIA

Delaware County

Ithan, *Radnor Friends Meetinghouse*, Sproul and Conestoga Rds.

Luzerne County

Hazelton, *Keller House*, 217 W. Broad St.

Montgomery County

Schwenksville vicinity, *Sunrise Mill*, 3 mi. W of Schwenksville on Neiffer Rd.

Westmoreland County

Irwin, *McCormick House*, 508 Main St.

RHODE ISLAND

Providence County

Providence, *Covell Street School*, 231 Amherst St.

TENNESSEE

Cheatham County

Ashland City, *Cheatham County Courthouse*, Court Sq.

Hamilton County

Georgetown vicinity, *Matthews, Pleasant L., House*, SW of Georgetown on Ooltewah-Georgetown Rd.

Hawkins County

Surgoinsville vicinity, *Fudge Farm*, NE of Surgoinsville on U.S. 11W.

McMinn County

Delano vicinity, *Trew General Merchandise Store*, W of Delano at TN 163 and Bowater Rd.

Obion County

Union City, *Confederate Monument*, Summer and Edwards Sts.

Scott County

Huntsville vicinity, *Paint Rock Creek Covered Bridge*, SE of Huntsville on Jacksboro Rd.

Sullivan County

Blountville vicinity, *Roller-Pettyjohn Mill*, W of Blountville on Fall Creek Rd.

TEXAS

Galveston County

Galveston, *Garten Verein Pavilion*, 27th St. and Ave. O (Kempner Park).
Galveston, *Menard, Michel B., House*, 1605 33rd St.

Reeves County

Saragos vicinity, *Parker Site*, E of Saragos off U.S. 290.

WEST VIRGINIA

Berkeley County

Arden vicinity, *Thornbrough, Thomas, House*, SW of Arden on SR 37.
Hedgesville vicinity, *Cunningham, Samuel, House*, SE of Hedgesville off WV 9.
Hedgesville vicinity, *Hedges, Samuel, House*, S of Hedgesville on SR 9/10.

Brooke County

Bethany, *Bethany Church of Christ*, Main and Church Sts.

Greenbrier County

Lewisburg, *Mt. Tabor Baptist Church*, Court and Foster Sts.
Lewisburg vicinity, *McClung, Col. Samuel, Place (Morlunda)*, NW of Lewisburg on SR 40.

Harrison County

Clarksburg, *Goff, Nathan, Jr., House*, 463 W. Main St.

Jefferson County

Shenandoah Junction vicinity *Hazelfield*, NW of Shenandoah Junction off Warm Springs Rd.

Kanawha County

St. Albans, *St. Mark's Episcopal Church*, 405–407 B St.

OUTER CONTINENTAL SHELF

Charleston vicinity, *H. L. Hunley* (submarine), E of Charleston, S.C.

[FR Doc.76-27897 Filed 9-27-76;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Addition

The owners of the Covell Street School in Providence, Rhode Island, and the Rhode Island State Historic Preservation Officer have requested expeditious review of the Covell Street School for entry into the National Register of Historic Places. The State Historic Preservation Officer has approved the nomination for inclusion in the National Register and supports the property owner's waiver of their right for comment and notice in the FEDERAL REGISTER. We are therefore including the Covell Street School in the National Register to be effective September 28, 1976.

GEORGE E. EMERY,
Acting Keeper of the National Register.

[FR Doc.76-28313 Filed 9-27-76;8:45 a.m.]

SLEEPING BEAR DUNES NATIONAL LAKESHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Sleeping Bear Dunes National Lakeshore Advisory Commission will be held at 1 p.m. (EDT), Friday, October 15, 1976, at the Sleeping Bear Dunes National Lakeshore Visitor Center, on State Route 109 at the junction of Welch Road, approximately five miles south of Glen Haven, Michigan.

The commission was established by Public Law 91–479 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Sleeping Bear Dunes National Lakeshore.

The members of the commission are as follows:

Mr. Nobel D. Travis (Chairman)
Mr. John B. Daugherty
Mr. Carl T. Johnson
Mr. William B. Bolton
Mr. John D. Stanz
Mr. Charles H. Yeates
Mrs. C. R. Williams
Mr. Louis F. Twardzik
Mr. John H. Stahlin
Mr. Sam Eberly

In addition to a report from the Superintendent and one on land acquisition, there will be a discussion of the lakeshore master plan and matters related to it.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact J. A. Martinek, Superintendent, Sleeping Bear Dunes National Lakeshore, 400½ Main Street, Frankfort, Michigan 49635, telephone 616 352–9611. Minutes of this meeting will be available for public inspection four weeks after the meeting at the office of the Superintendent.

Dated: September 15, 1976.

RANDALL R. POPE,
Acting Regional Director, Midwest Region.

[FR Doc.76-28314 Filed 9-27-76; 8:45 am]

Office of the Secretary

[Int DES 76-36]

EAGLE BUTTE MINE, CAMPBELL COUNTY, WYOMING

Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental impact statement on the proposed Eagle Butte strip coal mining operation by Amax Coal Company in Campbell County, Wyoming. The draft statement assesses the environmental impacts of the lessee's plan for the strip mining of the federally and State owned coal and the concurrent reclamation and revegetation of surface lands. The proposed action is on Federal coal lease W-0313773 and State coal lease 0-27078, T. 51 N., R. 72 W., 6th Prin. Mer.

The draft environmental statement is available for public review in the U.S. Geological Survey Public Inquiries Of-

fice, Room 1012, Federal Building, Denver, Colorado 80202; the U. S. Geological Survey Library, Building 25, Denver Federal Center, Denver, Colorado 80225; the U.S. Geological Survey Library, Room 4A100, USGS National Center, Reston, Virginia 22092; the Converse County Library, 300 Walnut Street, Douglas, Wyoming 82633; the George Amos Memorial Library; 412 South Gillette, Wyoming 82716; the Library of Natrona County, 307 East Second, Casper, Wyoming 82601; and the State Library, State of Wyoming, Supreme Court Building, Cheyenne, Wyoming 82002.

A limited number of copies are available from the United States Geological Survey, National Center, Mailstop 760, Reston, Virginia 22092; and, over the counter only, from the U.S. Geological Survey Public Inquiries Office, Room 1012, Federal Building, Denver, Colorado.

The Department will accept written comments on the draft statement for a period of 45 days subsequent to the date of this notice, and will consider any comments received in preparing the final environmental statement on this proposal. Written comments should be addressed to Director, United States Geological Survey, National Center (Mailstop 108) Reston, Virginia 22092.

The proposed mining and reclamation plan assessed in this statement was one of the mining proposals identified in the preparation of the regional analysis (Part I) of the Department's final environmental statement, FES 74–55, entitled "Proposed Development of Coal Resources in the Eastern Powder River Coal Basin of Wyoming," which was filed with the Council on Environmental Quality on October 18, 1974. Public hearings on the draft of the FES 74–55 statement were held as follows: June 24–25, 1974, at Cheyenne, Wyoming; June 26, 1974, at Casper, Wyoming; and June 27–28, 1974, at Gillette, Wyoming.

Dated: September 23, 1976.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.76-28275 Filed 9-27-76;8:45 am]

COORDINATING SUBCOMMITTEE OF THE COMMITTEE ON ENHANCED RECOVERY TECHNIQUES FOR OIL AND GAS IN THE UNITED STATES

Meeting

Notice is hereby given for the following meeting:

The Coordinating Subcommittee of the National Petroleum Council's Committee on Enhanced Recovery Techniques for Oil and Gas in the United States will meet on Wednesday and Thursday, October 13–14, 1976, starting at 1:30 p.m. on October 13 and at 9:30 p.m. on October 14, in the Board Room of Dell Webb's Newporter Inn, 1107 Jamboree Road, Newport Beach, California.

The agenda includes the following items for discussion:

1. Comments received from the Committee on Enhanced Recovery Techniques for Oil and Gas in the United States regarding the direction of the study.

2. Comments received from the Coordinating Subcommittee and Task Group members of the draft proposal for the final report.

3. Schedule for completion of the study.

4. Any other matters pertinent to the overall assignment of the Coordinating Subcommittee.

The purpose of the National Petroleum Council is to provide to the Secretary of the Interior, upon request, advice, information and recommendations upon any matter relating to petroleum or the petroleum industry.

The meeting will be open to the public to the extent that space and facilities permit. Any member of the public may file a written statement with the Council either before or after the meeting. Interested persons who wish to speak at the meeting must apply to the Council and obtain approval in accordance with its established procedures.

Further information about the meeting may be obtained from Ben Tafoya, Office of the Assistant Secretary—Energy and Minerals, Department of the Interior, Washington, D.C. (telephone: 343-6226).

Dated: September 23, 1976.

ROBERT L. PRESLEY,
Staff Assistant—Emergency Preparedness, Office of the Assistant Secretary—Energy and Minerals.

DEPARTMENT OF AGRICULTURE

Forest Service

MOUNT HEBGEN MANAGEMENT ALTERNATIVES

Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Mount Hebgen management alternatives, Forest Service report number USDA–FS–R1 (11)–DES–Adm–76–25.

The environmental statement concerns alternatives for ski development on Mount Hebgen and a proposed special use permit for Ski Yellowstone, Inc., to develop a ski area on approximately 1,800 acres of National Forest land in Gallatin County, Montana.

This draft environmental statement was transmitted to CEQ on September 21, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service, South Agricultural Bldg., Room 3230, 12th Street and Independence Ave., SW, Washington, DC 20250.

USDA Forest Service, Northern Region, Federal Building, Missoula, MT 59807.

USDA Forest Service, Gallatin National Forest, Federal Building, Bozeman, MT 59715.

USDA Forest Service, Hebgen Lake District, West Yellowstone, MT. 59758.

A limited number of single copies are available upon request to the Forest Supervisor, Gallatin National Forest, P.O. Box 130, Bozeman, MT 59715.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Lewis E. Hawkes, Gallatin National Forest, P.O. Box 130, Bozeman, MT 59715. Comments must be received by November 22, 1976, in order to be considered in the preparation of the final environmental statement.

Dated: September 21, 1976.

L. M. WHITFIELD,
Acting Regional Forester, Northern Region, Forest Service.

[FR Doc.76-28318 Filed 9-27-76;8:45 am]

Office of the Secretary

PRIVACY ACT OF 1974

Systems of Records

Correction

In FR Doc. 76–26211, appearing at page 39196 in the issue for Tuesday, September 14, 1976, make the following corrections:

1. In the fourth paragraph of the document, in the fourth line, after "Fair Practices Act," insert "Cotton Research and Promotion Act of 1966, and Egg Products Inspection Act".

2. On page 39200, in the left hand column, correct the following:

a. In the 13th line from the top, "inquire" should read "inquiry."

b. Under the heading "USDA/AMS–6", in "Categories of individuals covered by the system", in the third line, the word "pssible" should read "possible".

c. Also in the system USDA/AMS–6, in "Categories of records in the system", in the first line "consist" should read "consists".

d. In USDA/AMS–6, under "Authority for maintenance of the system", the second line should read "601 et seq, 1031 et seq, 1621 et seq, 2101 et seq, and 2301 et seq."

3. On page 39200, in the right hand column, correct the following:

a. In the first paragraph, 8th line, "reguatory" should be "regulatory".

b. In the 10th line of the first paragraph, "rue" should read "rule".

c. Also in the first paragraph, in the 17th line, "chargedwith" should be separated to read "charged with".

d. In the third paragraph, labeled "Storage", in the first line, delete "the" between the words "in and "file".

e. In the 8th paragraph, labeled "Systems exempted from certain provisions of the act", the third line should read "ments of 5 USC 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), (I), and (f) because_".

f. Also in the 8th paragraph, in the 8th line, "prosection" should read "prosecution".

g. Under the heading USDA/AMS-7, in the paragraph labeled "System Name", in the second line, "a" should read "as".

h. Under USDA/AMS-7, in the paragraph for "Categories of individuals covered by the system", in the last line, "administratio" should read "administration".

i. Under USDA/AMS-7, in the paragraph for "Categories of records in the system", in the second line, the last word now reading "interdepartmenta" should be "interdepartmental".

j. Under USDA/7, in the paragraph for "Routine uses of records maintained in the system * * *" in the 8th line, "aw" should read "law".

k. Under USDA/AMS-7, also in the paragraph for "Routine uses . . .", in the 10th line, "rue" should read "rule".

4. On page 39201, in the left hand column, making the following corrections:

a. In the 7th line, capitalize the D in "disclosure".

b. Under the heading "USDA/AMS-8", in the paragraph "System name", "Record" should read "Records'.

c. Under USDA/AMS-8, in the paragraph for "Routine uses of records . . .", in the fourth line, "transfes" should read "transfers".

d. Under USDA/AMS-8, also in the paragraph for "Routine uses . . .", in the 5th line, "qualificatios" should read "qualifications".

5. On page 39201, in the right hand column, make the following corrections:

a. In the 14th line from the top, "congressiona" should read "congressional".

b. In the 7th full paragraph, labeled "Notification procedure", in the 5th line, "Directr" should read "Director".

c. Also in the 7th paragraph, in the 6th line, the word "should" ought to read "shown".

d. In ninth paragraph, labeled "Authority for maintenance of the system", was incorrectly labeled. That paragraph should begin "Contesting record procedures:".

Rural Electrification Administration

HOOSIER ENERGY DIVISION

Indiana Statewide Rural Electric Cooperative, Inc.; Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with an anticipated request for a loan guarantee commitment from the Rural Electrification Administration for Hoosier Energy Division, P.O. Box 908, Indiana Statewide R.E.C., Inc., of Bloomington, Indiana 47401. This loan guarantee commitment will assist in obtaining financing for the construction of two 490 MW coal fired steam generating units near Merom, Indiana, and associated transmission facilities.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Impact Sattement have been sent to various Federal, State and local agencies, as outlined i nthe Council on Environmental Quality Guidelines. The Draft Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, D.C.,Room 4310, or at the borrower address indicated above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Richter at the address given above. Comments must be received on or before November 29, 1976 to be considered in connection with the proposed action.

Final REA action with respect to this matter (including a release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 21 day of September 1976.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.76-28232 Filed 9-27-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COMPUTER PERIPHERALS, COMPONENTS AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Tuesday, October 19, 1976, at 9:00 a.m., in Room 3817, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Discussion of work program, including classification methods for foreign availability and technical classification.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 25, 1975, pursuant to section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of national security. All materials to be reviewed and discussed by the Committee during the Exective Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Free-

dom of Information Officer, Room 3100, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The Complete Notice of Determination to close portions of the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on December 24, 1975 (40 FR 59462).

Dated: September 22, 1976.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76-28276 Filed 9-27-76;8:45 am]

National Oceanic and Atmospheric Administration

PORPOISE MORTALITY INCIDENTAL TO TUNA PURSE SEINE FISHING

Availability of Reports

Copies of the following listed reports are now available from the National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235:

1. Administrative Report—LJ-76-17, Progress of Research on Porpoise Mortality Incidental to Tuna Purse Seine Fishing For Fiscal Year 1976, By: Staff, Porpoise Tuna Interaction Program, Southwest Fisheries Center, La Jolla, California dated September 7, 1976, and;

2. Administrative Report—LJ-76-29, Report of the Workshop on Stock Assessment of Porpoises Involved in the Eastern Pacific Yellowfin Tuna Fishery, dated September, 1976.

Copies of the reports may be obtained by contacting the Division of Marine Mammals and Endangered Species, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, telephone number (202) 634-7529.

Dated: September 23, 1976.

HARVEY M. HUTCHINGS,
National Marine Fisheries Service.

[FR Doc.76-28319 Filed 9-27-76;8:45 am]

National Oceanic and Atmospheric Administration

MARINE FISHERIES ADVISORY COMMITTEE

Public Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I, notice is hereby given of meetings of the Marine Fisheries Advisory Committee (MAFAC) and a subcommittee.

The committee meeting (MAFAC XV) will be held on Wednesday, Thursday, and Friday, October 20, 21, and 22, 1976, in the Auditorium of the National Marine Fisheries Service Northwest Fisheries Center, 2725 Montlake Boulevard East, Seattle, Washington. The committee will meet beginning at 1:30 p.m. on Wednesday, October 20 to consider items listed on the agenda below. This session is scheduled to adjourn at 5:00 p.m. on that day. On the morning of Thursday, October 21 the committee will reconvene at 8:30 a.m. to receive a briefing on programs conducted by the NMFS Northwest Regional Office and the Northwest Fisheries Center. The briefing is to conclude by noon on that day. The afternoon of October 21, beginning at 1:30 p.m., will be devoted to continuation of agenda items below, with adjournment for the day scheduled at 4:30 p.m. The last session of the meeting will be held on Friday, October 22 beginning at 8:30 a.m. It is anticipated that the meeting will be adjourned about noon of that day.

One subcommittee meeting will be held in conjunction with the committee meeting. On Wednesday morning, October 20 beginning at 9:00 a.m. the Marine Recreational Fisheries subcommittee will meet to consider developments with regard to NMFS Marine Recreational Fisheries programs and review NMFS actions on past recommendations. It is anticipated that the subcommittee meeting will be concluded by noon on Wednesday.

Interested public is also advised that at the last meeting of the committee's subcommittee on extended jurisdiction planning, held on July 27-28, 1976, in Reston, Virginia, there was discussion of the need to schedule another meeting of that subcommittee in conjunction with the committee meeting which is subject to this notice. Since ample time is provided on the agenda below for thorough discussion of extended jurisdiction matters and since such matters are likely to pertain to items of interest to the committee of the whole, the decision has been made to forego a meeting of the subcommittee on extended jurisdiction at this time.

Items proposed for discussion at the cmmittee meetings include the following:

OCTOBER 20, 1976 (WEDNESDAY)

10:00-12:00 noon—Reserved for meeting of Marine Recreational Fisheries Subcommittee.
12:00-1:30 p.m.—Lunch.
1:30-1:40 p.m.—Chairman's announcements.
1:40-5:00 p.m.—Extended jurisdiction.
1:40-2:20 p.m.—Report of Chairman, Planning for Extended Jurisdiction subcommittee on July 27-28 meeting.
2:20-2:50 p.m.—Report on Regional Fishery Management Councils.
2:50-3:20 p.m.—Report on National Conference of Regional Fishery Management Councils.
3:20-4:00 p.m.—FY 1977 Extended Jurisdiction Budget, its rationale and development.
4:00-4:30 p.m.—Update on extended jurisdiction planning effort.
4:30-5:00 p.m.—Discussion item, relationship between MAFAC and Regional Fishery Management Councils.
5:00 p.m.—Adjourn for Day.

OCTOBER 21, 1976 (THURSDAY)

8:30-12:00 noon—NMFS Northwest Regional Review.
Review of Regional Programs.
Regional and Center Activities, preparations for extended jurisdiction.
The Northwest Fishery Information System.
Investigating the Impact of Pollutants on Marine Biota.
Columbia River Basin Program.
Tour of Northwest Fisheries Center.
12:00-1:30 p.m.—Lunch.
1:30-3:30 p.m.—NMFS Programs to Develop Underutilized and Undervalued Species for Direct Consumption.
3:30-4:30 p.m.—New Market Names for Fishery Products.
4:30 p.m.—Adjourn for day.

OCTOBER 22, 1976 (FRIDAY)

8:30-9:30 a.m.—Implementation of a National program for Marine Fisheries.
9:30-10:00 a.m.—Report of the Subcommittee on Marine Recreational Fisheries.
10:00-10:30 a.m.—Report on Plans for Distributing Limited Entry Information to Regional Fishery Management Councils.
10:30-11:30 a.m.—Update on the Implementation of the NMFS Reorganization
11:30-12:00 noon—Items suggested by the committee.
12:00 noon—Adjourn meeting.

The committee meeting, as well as the subcommittee meeting, is open to the public and there will be seating for approximately 20 public members available on a first come, first served basis. Members of the public having an interest in specific items for discussion are advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact:

Mr. Alfred J. Bilik, Executive Secretary, Marine Fisheries Advisory Committee, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, D.C. 20235. Telephone: Area Code 202-634-7270.

on or about October 11, 1976.

At the discretion of the Chairman, interested members of the public may be permitted to speak at times which will allow the orderly conduct of committee business, and a reasonable time relation between the committee's discussion of a given subject and an address to that same subject by a member of the public.

Interested members of the public who wish to submit written comments should do so by addressing the same to the Executive Secretary, as above. To receive due consideration and facilitate their inclusion in the record of the meeting, written statements should be received within

10 days after the close of the committee meeting.

SEPTEMBER 22, 1976.

ROBERT M. WHITE,
Administrator, National Oceanic and Atmospheric Administration.

[FR Doc.76-28397 Filed 9-27-76;8:45 am]

United States Travel Service

DOMESTIC TOURISM DEVELOPMENT AND PROMOTION

Meeting

On Monday, October 4, 1976, Secretary of Commerce Elliot L. Richardson and officials of the United States Travel Service will meet with chief executive officers of several major travel-related corporations to discuss ways in which the public and private sectors can work to strengthen domestic tourism development and promotion efforts to the benefit of the American public. The meeting will be held in Room 4830, Main Commerce Building, Washington, D.C., from 3:00 to 4:00 p.m.

CREIGHTON D. HOLDEN,
Assistant Secretary for Tourism.

[FR Doc.76-28446 Filed 9-27-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N-0231]

HESS & CLARK, ET AL.

Furaltadone (NF-260); Opportunity for Hearing on Proposal to Withdraw Approval of Certain New Animal Drug Applications

Correction

In FR Doc. 76-23621 appearing on page 34891 in the issue of Tuesday, August 17, 1976, the Docket Number in the heading should have read as set forth above. Also, on page 34895, eight lines from the bottom of the third full paragraph of the middle column, the word "identified" should have read "residues".

Office of Education

HANDICAPPED RESEARCH AND DEMONSTRATION

Closing Date for Receipt of Applications

Notice is hereby given that, pursuant to the authority contained in sections 641 and 642 of Part E of the Education of the Handicapped Act (20 U.S.C. 1441, 1442), applications are being accepted for support for research and related purposes related to education of the handicapped. This announcement covers applications for new awards only for the Student Research program.

Under the Student Research program, the Office of Education is interested in a broad range of student initiated and directed research and research-related projects focusing on the education of handicapped children. Two award cycles are planned for Fiscal Year 1977. Proposals received for the first cycle will not be held over for the second cycle, but may be resubmitted.

Applications must be received by the U.S. Office of Education Application Control Center on or before the following dates: First Cycle, December 1, 1976; and for the Second Cycle, March 15, 1977.

A. APPLICATIONS SENT BY MAIL

An application sent by mail should be addressed as follows: U.S. Office of Education, Grants and Procurement Management Division, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.443. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 26, 1976 for First Cycle, and March 15, 1977 for Second Cycle, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. HAND DELIVERED APPLICATIONS

An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. PROGRAM INFORMATION AND FORMS

Further information and application forms may be obtained from the Research Projects Branch, Bureau of Education for the Handicapped, Office of Education, 400 Maryland Avenue SW., ROP 2012, Washington, D.C. 20202.

D. APPLICABLE REGULATIONS

The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a) and Programs for the Education of the Handicapped (45 CFR Part 121h).

(20 U.S.C. 1441, 1442.)

Dated: August 19, 1976.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance, No. 13.443 Handicapped Research and Demonstration.)

[FR Doc.76-28254 Filed 9-27-76;8:45 am]

TEACHER CORPS

Closing Date for Receipt of Applications

Notice is hereby given that, pursuant to the authority contained in Part B-1 of the Education Professions Development Act of 1965, as amended (20 U.S.C. 1101-1107a), applications are being accepted.

Applications must be received by the Application Control Center on or before December 15, 1976.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Grant and Procurement Management Division, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.489. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than December 10, 1976 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail room in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Teacher Corps, Donohoe Building, 400 6th Street SW., Washington, D.C. 20202.

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a) and the funding criteria applicable to this program published in the FEDERAL REGISTER on August 11, 1976.

(20 U.S.C. 1101-1107a.)

Dated: September 21, 1976.

(Catalog of Federal Domestic Assistance Number 13.489; Teacher Corps.)

JOHN D. PHILLIPS,
Acting U.S. Commissioner of Education.

[FR Doc.76-28255 Filed 9-27-76;8:45 am]

Social and Rehabilitation Service

WORK INCENTIVE PROGRAM

Social and Supportive Services

On June 8, 1976, this Department published in the FEDERAL REGISTER (41 FR 22975) and transmitted in SRS–AT–76–92, dated June 8, 1976, a method o calculating limits of entitlement (along with a list of proposed entitlements) for States to operate programs under Section 402 (a)(19)(G) and 403(d) of the Social Security Act during the Transition Quarter (July 1, 1976, through September 30, 1976). This action was necessary to assure that States operate their programs within the amount available under this Department's appropriation.

During the 30 day comment period three responses were received regarding the proposed method for calculating the limits of entitlement for the Transition Quarter. One comment stated there was no disagreement with the proposal. Two comments stated that a larger entitlement than the amount listed in the proposal is needed to operate their programs.

Given the fact that there are less funds available than the several States would prefer, the Department feels the proposal is a reasonable distribution solution in that it is related directly to the Fiscal Year 1976 entitlement for each State. Therefore, after considering the three comments, no changes are being made in the proposed method for calculating Transition Quarter limits of entitlement. Transition Quarter limits of entitlement are based on the ratio each State's limit of entitlement for Fiscal Year 1976 (published in the FEDERAL REGISTER and transmitted by SRS–AT–76–47 (APA), dated March 26, 1976) bears to the total of such limits of entitlement for all the States, except that the limit of entitlement for the Virgin Islands is $16,250 in order to comply with the limitation imposed of Section 1108 of the Social Security Act.

In accordance with Action Transmittal SRS–AT–76–112, dated July 8, 1976, a survey was conducted to determine which States would need more or less funds than listed in the proposed limits of entitlement for the Transition Quarter (SRS–AT–76–92). Twenty-six States responded to the survey by August 25, 1976. Among the twenty-six responses, no estimate was less than the proposed limit. Consequently, there were no funds available for redistribution for the Transition Quarter to the States estimating higher than their proposed limit. Seven States requested in response to SRS–AT–76–112 that a portion of their unused Fiscal Year 1976 limit of entitlement be made available for the Transition Quarter; these States' entitlements have been increased as a result of the requested transfers (see asterisks).

Notice is hereby given that Transition Quarter (July 1, 1976, through September 30, 1976) limits of entitlement for each State for child care, other supportive services and administration under Section 402(a)(19)(G) and 403(d) of the Social Security Act are as follows:

Alabama	*$318,773
Alaska	130,190
Arizona	312,604
Arkansas	*205,510
California	*3,347,200
Colorado	411,369
Connecticut	348,554
Delaware	97,156
District of Columbia	394,593
Florida	603,745
Georgia	713,259
Hawaii	128,363
Idaho	155,304
Illinois	1,106,246
Indiana	*365,018
Iowa	300,065
Kansas	211,534
Kentucky	*459,533
Louisiana	269,772
Maine	178,173
Maryland	662,658
Massachusetts	694,382
Michigan	2,401,525
Minnesota	431,251
Mississippi	239,190
Missouri	506,063
Montana	103,895
Nebraska	101,759
Nevada	51,195
New Hampshire	48,484
New Jersey	1,889,925
New Mexico	113,695
New York	3,000,339
North Carolina	357,692
North Dakota	66,587
Ohio	752,582
Oklahoma	199,644
Oregon	*836,995
Pennsylvania	1,013,955
Rhode Island	192,979
South Carolina	249,244
South Dakota	121,418
Tennessee	327,793
Texas	759,692
Utah	341,648
Vermont	126,147
Virginia	333,848
Washington	*720,527
West Virginia	436,061
Wisconsin	934,310
Wyoming	38,032
Guam	13,981
Puerto Rico	345,336
Virgin Islands	16,250
Total	$28,486,043

Dated: September 22, 1976.

ROBERT FULTON,
Administrator.

[FR Doc.76-28293 Filed 9-27-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. N–76–635]

COMMUNITY DEVELOPMENT BLOCK GRANTS

Closing Date for Submission of Applications and Letters of Intent for Grants for Areawide Programs

Notice is hereby given that in accordance with 24 CFR 570.404, letters of intent and applications are being accepted from States and units of general local government for grants for areawide programs.

As provided in § 570.404(b), applications will be accepted from units of general local government which are Participating Jurisdictions in Areawide Housing Opportunity Plans and which have received a supplemental allocation of housing assistance pursuant to 24 CFR Part 891. For Fiscal Year 1976, a total of $1,500,000 will be made available for grants for areawide programs under § 570.404(b).

Areawide Planning Organizations will be requested to identify priority activities, assemble applications prepared by Participating Jurisdictions in accordance with § 570.404(b)(3), and rank activities in a manner which reflects the degree to which the proposed activities aid and further the objectives of the Areawide Housing Opportunity Plan.

In order to receive consideration for funding pursuant to this Notice, three copies of each application must be received by the Assistant Secretary for Community Planning and Development by 5 p.m., Washington, D.C. time, Dec. 31, 1976. The request shall be addressed to:

Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

In addition, one copy of the application shall be addressed to the HUD Area Office serving the applicant's jurisdiction.

As provided in § 570.404(c), letters of intent will be accepted from States for grants in nonmetropolitan rural areas. For Fiscal Year 1976, a total of $2,500,000 will be made available for grants for areawide programs under § 570.404(c).

In order to receive consideration for funding pursuant to this Notice, three copies of each letter of intent must be received by the Assistant Secretary for Community Planning and Development by 5 p.m., Washington, D.C., time, December 31, 1976, at the above address. In addition one copy of the letter of intent shall be addressed to the HUD Area Office serving the jurisdiction to be served.

Dated: September 23, 1976.

DAVID O. MEEKER, JR.,
FAIA, AIP Assistant Secretary for Community Planning and Development.

[FR Doc.76-28299 Filed 9-27-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. HS–4, Notice No. 1]

HOURS OF SERVICE ACT

Notice of Agency Interpretations; Request for Public Comment

The Federal Railroad Administration (FRA) intends to issue a statement of agency policy and interpretation concerning the Hours of Service Act, as amended (45 U.S.C. 61–64b). Since the Act was recently amended in several significant respects by section 4 of the Federal Railroad Safety Authorization Act of 1976, Pub. L. 94–348, FRA seeks public comment concerning whether the proposed interpretations represent a realistic application of the statutory language to actual conditions in the railroad in-

dustry. While the amended statute will necessarily impose significant new restrictions on carrier utilization of personnel, especially signal forces, FRA is concerned that the Act be administered in a way which will serve the beneficent purposes of the Act without producing unintended and unnecessary problems for carriers and their employees.

The interpretations will be published in the form of an appendix to Part 228 of Title 49, Code of Federal Regulations, which consists of FRA regulations that implement the Hours of Service Act. The appendix will describe and interpret the requirements of the Act, providing guidance for its application in commonly encountered situations.

In developing the draft of the appendix set forth below, FRA has examined the legislative history of the recent amendments, as well as relevant court decisions bearing on previously enacted provisions of the law. FRA has also received numerous comments from interested persons relating to specific issues. While it has not been possible to anticipate and address all of the various questions likely to arise, especially with regard to the new requirements, FRA has attempted to prepare a reasonably comprehensive guide to the law. The appendix, when finalized, will replace an informational memorandum of January 9, 1973, which has been widely disseminated within the industry and which has been made available to the public generally.

The proposed appendix does not address the meaning of the 1976 amendment to the Act which makes it unlawful for a common carrier to provide sleeping quarters for employees covered by the Act "which do not afford such employees an opportunity for rest, free from interruptions caused by noise under the control of the railroad, in clean, safe, and sanitary quarters." FRA intends to address the issues posed by this portion of the statute by amending the appendix at a future date. FRA solicits comments concerning the provision as it applies to fixed quarters, trailers, and camp or bunk cars.

While public proceedings on the appendix are not required by law or agency rules, FRA invites public comment on the draft for the purpose of identifying those portions of the document which may require expansion, refinement, or modification prior to final publication.

Comments should refer to Docket No. HS-4 and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel (RCC-1), Federal Railroad Administration, 400 7th Street SW., Washington, D.C. 20590. Comments received by October 29, 1976, will be considered in preparing the final document.

Issued in Washington, D.C., on September 22, 1976.

ASAPH H. HALL,
Administrator.

APPENDIX A

REQUIREMENTS OF THE HOURS OF SERVICE ACT

First enacted in 1907, the Hours of Service Act was substantially revised in 1969 by Pub. L. 91-169. Further amendments were enacted as part of the Federal Railroad Safety Authorization Act of 1976, Pub. L. 94-348. The purpose of the law is "to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees * * *." This appendix is designed to explain the effect of the law in commonly-encountered situations.

The Act governs the maximum work hours of employees engaged in one or more of the three basic categories of covered service treated below. If an individual performs more than one kind of covered service during a tour of duty, then the most restrictive of the applicable limitations control.

The Act applies to any common carrier engaged in interstate or foreign commerce by railroad. It governs the carriers' operations over its own railroad and all lines of road which it uses.

TRAIN AND ENGINE SERVICE

Covered service. Train or engine service refers to the actual assembling or operation of trains. Employees who perform this type of service commonly include locomotive engineers, firemen, conductors, trainmen, switchmen, switchtenders, and hostlers. With the passage of the 1976 amendments, both inside and outside hostlers are considered to be connected with the movement of trains. Previously, only outside hostlers were covered. Any other employee who is actually engaged in or connected with the movement of any train is also covered, regardless of his job title.

Limitations on hours. The Act establishes two limitations on hours of service. First, no employee engaged in train or engine service may be required or permitted to work in excess of twelve consecutive hours. After working a full twelve consecutive hours, an employee must be given at least ten consecutive hours off duty before being permitted to return to work.

Second, no employee engaged in train or engine service may be required or permitted to continue on duty or go on duty unless he has had at least eight consecutive hours off duty within the preceding twenty-four hours. This latter limitation, when read in conjunction with the requirements with respect to computation of duty time (discussed below), results in several conclusions:

(1) When an employee's work tour is broken or interrupted by a valid period of interim release (4 hours or more at a designated terminal), he may return to duty for the balance of the total 12-hour work tour during a 24-hour period.

(2) After completing the 12 hours of broken duty, or at the end of the 24-hour period, whichever occurs first, the employee may not be required or permitted to continue on duty or to go on duty until he has had at least 8 consecutive hours off duty.

(3) The 24-hour period referred to in paragraphs 1 and 2 above shall begin upon the commencement of a work tour by the employee immediately after his having received a statutory off-duty period of 8 or 10 hours as appropriate.

Duty time and effective periods of release. On-duty time commences when an employee reports at the time and place specified by the railroad and terminates when the employee is finally released of all responsibilities. Any period available for rest that is of four or more hours and is at a designated terminal is off-duty time. All other periods available for rest must be counted as time on duty under the law.

The term "designated terminal" means a terminal designated under a collective bargaining agreement as the "home" or "away-from-home" terminal for a particular crew assignment and having suitable facilities for food and lodging. Carrier and union representatives may agree to designate additional "away-from-home" terminals having such facilities as points of effective release. The following are common situations illustrating the designated terminal concept:

(1) A freight or passenger road crew operates a train from home terminal "A" to away-from-home terminal "B" (or the reverse). Terminals "A" and "B" are the designated terminals for this specific crew assignment.

(2) A road crew operates a train in turnaround service from home terminal "A" to turn-around point "B" and back to "A". Terminal "A" is the only designated terminal for this specific crew assignment.

(3) A crew is assigned to operate a maintenance-of-way work train from home terminal "A", work on line of road and tie up for rest along the line of road at point "B". Home terminal "A" and tie-up point "B" both qualify as designated terminals for this specific work train crew assignment. Of course, suitable facilities for food and lodging must be available at tie-up point "B".

Deadheading. Under the Act time spent in deadhead transportation receives special treatment. Time spent in deadhead transportation to a duty assignment is considered on-duty time. Time spent in deadhead transportation from the final duty assignment of the work tour to the point of final release is not computed as either time on duty or time off duty. Thus, the period of deadhead transportation to point of final release may not be included in the required 8- or 10-hour off-duty period. Time spent in deadhead transportation to a duty assignment is calculated from the time the employee reports for deadhead until he reaches his duty assignment.

Transit time from the employee's residence to his regular reporting point is not considered deadhead time.

If an employee utilizes personal automobile transportation to a point of duty assignment other than the regular reporting point in lieu of deadhead transportation provided by the carrier, such actual travel time is considered as deadheading time. However, if the actual travel time from his home to the point of duty assignment exceeds a reasonable travel time from the regular reporting point to the point of duty assignment, then only the latter period is counted. Of course, actual travel time must be reasonable and must not include diversions for personal reasons.

Example. Employee A receives an assignment from an "extra board" located at his home terminal to protect a job one hour's drive from the home terminal. In lieu of transporting the employee by carrier conveyance, the railroad pays the employee a fixed amount to provide his own transportation to the outlying point. The employee is permitted to go directly from his home to the outlying point, a drive which takes 40 minutes. The normal driving time between his regular reporting point at his home terminal and the outlying point is 60 minutes. The actual driving time, 40 minutes, is considered deadhead time and is counted as time on duty under the Act. Employee A performs local switching service at the outlying point. When the employee returns from the outlying point that evening, and receives an "arbitrary" payment for his making the return trip by private automobile, 40 minutes of his time in transportation home is considered deadheading to point of final release and is not counted as either time on duty or time off duty.

Wreck and relief trains. Prior to the 1976 amendments, crews of wreck and relief trains were exempted entirely from the limitations on hours of service. Under present law that is no longer the case. The crew of a wreck or relief train may be permitted to be on duty for not to exceed 4 additional hours in any period of 24 consecutive hours

whenever an actual emergency exists and the work of the crew is related to that emergency. Thus, a crew could work up to 16 hours, rather than 12. The Act specifies that an emergency ceases to exist for purposes of this provision when the track is cleared and the line is open for traffic.

Example. The crew of a wreck train is dispatched to clear the site of a derailment which has just occurred on a main line. The wreck crew re-rails or clears the last car and the maintenance of way department releases the track to the operating department 14 hours and 30 minutes into the duty tour. Since the line is not clear until the wreck train is itself out of the way, the crew may operate the wreck train to its terminal, provided this can be accomplished within the total of 16 hours on duty.

Acts of God; casualties. The Act contains no general exception using the term "emergency" with respect to train or engine service or related work. Section 5 of the Act does state the following: "The provisions of this Act shall not apply in any case of casualty or unavoidable accident or the Act of God; nor where the delay was the result of a cause not known to the carrier or its officer or agent in charge of the employee at the time said employee left a terminal, and which could not have been foreseen." This passage is commonly referred to as the "emergency provision". Judicial construction of this sentence has limited the relief which it grants to situations which are truly unusual and exceptional. The courts have recognized that delays and operational difficulties are common in the industry and must be regarded as entirely foreseeable; otherwise, the Act will provide no protection whatsoever. Common operational difficulties which do not provide relief from the Act include broken draw bars, locomotive malfunctions, equipment failures, brake system failures, hot boxes, unexpected switching, doubling hills and meeting trains. Nor does the need to clear a main line or cut a crossing justify disregard of the limitations of the Act.

COMMUNICATION OF TRAIN ORDERS

Covered service. The handling of orders governing the movement of trains is the second type of covered service. This provision of the Act applies to any operator, train dispatcher, or other employee who by the use of the telegraph, telephone, radio, or any other electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders pertaining to or affecting train movements.

The approach of the law is functional. Thus, though a yardmaster normally is not covered by this provision, a yardmaster or other employee who performs any of the specified service during a duty tour is subject to the limitations on service for that entire tour.

Limitations on hours.—No employee who performs covered service involving communication of train orders may be required or permitted to remain on duty for more than nine hours, whether consecutive or in the aggregate, in any 24-hour period in any office, tower, station or place where two or more shifts are employed. Where only one shift is employed, the employee is restricted to 12 hours consecutively or in the aggregate during any 24-hour period.

The provision on emergencies, discussed below, may extend permissible hours of employees performing this type of service.

Shifts. The term "shift" is not defined by the Act, but it must be read to have the meaning commonly understood in the railroad industry, i.e., a tour of duty constituting a day's work for one or more employees performing the same class of work at the same station who are scheduled to begin and end work at the same time. The following are examples of this principle:

Scheduled hours and classification

(1) 7:00 a.m.–3:00 p.m., One shift.

(2) 7:00 a.m.–12:30 p.m.; 1:30 p.m.–8:00 p.m. (Schedule for one employee including one hour lunch period), One shift.

(3) 7:00 a.m.–3:00 p.m.; 7:00 a.m.–3:00 p.m. (Two employees scheduled), One shift.

(4) 7:00 a.m.–3:00 p.m.; 8:00 a.m.–4:00 p.m. (Two employees scheduled), Two shifts.

Duty time and effective periods of release. If, after reporting to his place of duty, an employee is required to perform duties at other places during this same tour of duty, the time spent traveling between such places is considered as time on duty.

A release period is considered off-duty time if it provides a meaningful period of relaxation and if the employee is free of all responsibilities to the carrier.

Emergencies. The section of the Act dealing with dispatchers, operators, and others who transmit or receive train orders contains its own emergency provision. In case of emergency, an employee subject to the 9 or 12-hour limitation is permitted to work an additional four hours in any 24-hour period, but only for a maximum of three days in any period of seven consecutive days. However, even in an emergency situation the carrier must make reasonable efforts to relieve the employee.

INSTALLATION, REPAIR OR MAINTENANCE OF SIGNAL SYSTEMS

Covered service. The 1976 amendment to the Act added to the class of those persons subject to limitations on hours of service individuals employed by a common carrier who are engaged in installing, repairing or maintaining signal systems. The House committee report on the 1976 amendments contains the following passage, which was repeated on the Senate floor during the debate on passage in that body:

The duties of signalmen encompass the construction, installation, repair, maintenance, testing and inspection of signal systems. These signal systems include automatic block signal systems, traffic control systems, train stop, rail-highway grade crossing protection, automatic classification yards, hot box detectors, broken flange detectors, and other similar devices, appliances and systems. H.R. Rep. No. 94–1166 (1976) at pg. 12.

This explanation of the language of the statute stands as the basic guide to the types of duties covered by this amendment.

The Act applies to persons employed in carrier signal shops whose duties involve the assembly or repair of components used in signal systems. It makes no difference whether work on a component is done in the field or in a shop, since the impact on safety resulting from fatigue may be as great in either case.

It should be noted that certain related work will have such a minimal relation to traditional signal duties as to put it outside the scope of covered service. For instance, an individual responsible for track maintenance whose only signal-related work is the replacement of insulation at rail joints would not be covered by the Act.

In keeping with the functional approach of the Act, employees are subject to the Act only if they perform covered service. Work in the nature of digging ditches into which signal cables are to be laid, putting up poles (without installing signal lines), and driving signal department vehicles is not covered service under the Act. Of course, if an individual performing such duties also engages in covered service during the twenty-four hour period, then the individual will be subject to the Act for the particular duty tour and for purposes of required off-duty periods. (See discussion of "Commingled Service," below.)

Limitations on hours. No individual employed by a common carrier in installing, repairing or maintaining signal systems may be required or permitted to work in excess of twelve consecutive hours. After working a full twelve consecutive hours, an individual must be given at least ten consecutive hours off duty before being permitted to return to work.

No individual engaged in covered work may be required or permitted to continue on duty or go on duty unless he has had "at least eight consecutive hours off duty within the preceding twenty-four hours." The clear spirit and intent of the quoted language lead to the conclusions that:

(1) When the work tour is broken or interrupted by off-duty periods of less than 8 consecutive hours, the individual may be on duty up to a maximum of 12 hours during a 24-hour period, so long as such individual has had a statutory off-duty period of at least 8 or 10 consecutive hours immediately prior to beginning the work tour.

(2) After completing the 12 hours of broken duty, or at the end of the 24-hour period, whichever occurs first, the employee may not be required or permitted to continue on duty or to go on duty until he has had at least 8 consecutive hours off duty.

(3) The 24-hour period referred to in paragraphs 1 and 2 above shall begin upon the commencement of a work tour by the employee immediately after his having received a statutory off-duty period of 8 or 10 hours.

The provision on emergencies, discussed below, may extend the permissible hours of an individual engaged in signal work.

The following examples illustrate the effect of the limitations on hours of service in situations similar to those likely to be encountered on many railroads. For simplicity, the examples assume no breaks in the continuity of service during the stated hours.

Example A

Facts: Regular duty tour, 7:00 a.m.–3:00 p.m. (8 hours). Trouble call, 10:00 p.m.–1:00 a.m. (3 hours).

Effect of law: The individual may not return to his regular job until 9:00 a.m., since he must receive 8 consecutive hours off duty before commencing a new 24-hour period. (Note that the individual had not had 8 consecutive hours off duty between the regular duty tour and the trouble call.)

Example B

Facts: Regular duty tour, 7:00 a.m.–3:00 p.m. (8 Hours). Trouble Call 1, 10:00 p.m.–12:00 midnight (2 hours). Trouble Call 2, 5:00 a.m.–6:00 a.m. (1 hour).

Effect of law: The individual may not return to his regular job until 2:00 p.m., since he must receive 8 consecutive hours off duty before commencing a new 24-hour period.

Example C

Facts: Regular duty tour, 7:00 a.m.–3:00 p.m. (8 hours). Trouble Call 1, 10:00 p.m.–12:00 midnight (2 hours). Trouble Call 2, 6:00 a.m.–

Effect of law: The individual must be given 8 hours rest starting at 7:00 a.m. since the 24-hour period which commenced at 7:00 a.m. the previous day has now expired.

Duty time and effective periods of release. The Act provides that time on duty begins to run when an individual reports for duty

and terminates when the individual is finally released from duty.

Travel between the individual's regular reporting point and his residence in connection with his usual duty tour is not counted in computing hours on duty under the Act.

FRA recognizes that much of the compensated time of signal maintainers and others performing covered service is devoted to traveling along the lines of railroad for which the individuals have responsibility. Often an individual goes directly from his home to the duty site without first formally reporting to his headquarters or office. Hence, provisions of the Act relating to signal work would have little meaning unless the individual's travel time for the employer is considered on-duty time.

Uniform and consistent administration of the Act requires that a fixed, known standard be enunciated for the treatment of time spent in transportation for the carrier's purposes. FRA has determined that the following statements fairly interpret the intent of the Act while providing objective standards applicable to most common situations. For purposes of the following, "compensated transportation time" means time spent in transportation for the carrier's purposes, which is compensated by the employer—either through an hourly wage or agreed "arbitrary" payment. In the case of a salaried employee, compensation is assumed.

1. *Commuting.* As stated above, normal commuting between the individual's residence and his normal "headquarters" or "regular reporting point" is not time on duty for any purpose. This principle applies only to commuting associated with a regular duty period. It is immaterial whether the individual employs a personal vehicle or carrier truck for commuting.

Example 1–A. Signalman A operates out of a headquarters point to which he normally reports at the beginning of a work day. His transportation time between his home and the headquarters point at the beginning and end of the normal work day is counted as part of his required off-duty period of 8 or 10 hours.

2. *Transportation during regular duty tour.* All time spent in transportation during a regular duty tour is normally time on duty, assuming it is associated with covered service. (See discussion on "Commingled Service" under General Provisions, below.)

Example 2–A. After reporting to headquarters for a scheduled work day, Signalman A drives or rides in a vehicle or track car to a work site where covered service is performed. The trip from headquarters to work site takes 40 minutes. The trip time is considered on-duty time.

Example 2–B. Having finished covered service at the last work site of the regular work day, Signalman A drives or rides in a vehicle or track car back to headquarters, where he ties up. The trip back to headquarters is on-duty time for Signalman A.

Example 2–C. A signal gang travels to a work site remote from individual residences. The carrier houses the crew in a motel (or trailer, etc.), which is treated as the tie-up point for the gang. The gang is given any necessary rest period. The gang departs the motel at 7:30 a.m. the next morning for a work site, works continuously all day, and returns to the tie-up point at 7:30 p.m. that evening. Members of the gang have been on duty for 12 hours for purposes of the Act (and must have 10 consecutive hours off duty before returning to work).

3. *Transportation directly to work site, regular duty tours.* Compensated travel time from an individual's residence to an initial work site other than his headquarters in connection with a scheduled duty period is considered time on duty. FRA has been informed that, customarily, signal maintainers and other employees engaged in this work will report to headquarters before going to a work site on the line of railroad (see above). However, in those instances where an employee is permitted to utilize some of his compensated time traveling directly from his residence to a work site where covered service is performed, that time is counted as time on duty under the Act. It is administratively impracticable to distinguish between work sites which are relatively close to the residence and those distant from the residence.

Example 3–A. Signalman A, whose usual work day begins at 7:00 a.m., goes directly to a work site on a given day instead of reporting to headquarters. Signalman A leaves his home at 6:30 a.m. and drives to the work site, arriving at 7:45 a.m. He is paid from 7:00 a.m. until he goes off duty. Signalman A is on duty for purposes of the Act from 7:00 a.m. forward. It is immaterial whether he drove to the work site in his personal automobile or a carrier provided truck.

4. *Transportation from work site to residence; regular duty tour.* Compensated travel time from an individual's final work site to his personal residence is on-duty time under the Act. Normally signal maintainers and others tie up at their headquarters. However, where an individual is permitted or required to travel from a work site directly to his residence and is compensated in some way for his time, then that actual period of travel (less personal detours) is on-duty time.

Example 4–A. Signalman B, who first went on duty at 7:00 a.m., finishes work at an outlying work site, at 3:30 p.m. He drives or rides (by personal automobile or carrier-provided truck) directly to his home. No stop is made at headquarters. He is compensated in some way for the entire trip, which ends at 4:45 p.m. His compensated time from 7:00 a.m. until 4:45 p.m. is on-duty time for Hours of Service purposes.

5. *Trouble calls.* As a general rule, compensated time from the time an individual receives a trouble call until he arrives back at his residence is considered time on duty. Of course, this assumes the individual actually begins service for the carrier immediately and makes no personal detours. Periods devoted to purely personal matters are deducted from the total time on duty. Only compensated time is counted. For instance, if the individual is required to return to headquarters after a call to "tie-up", and receives no additional pay for the period of transportation from headquarters to home, then the employee is considered to be off duty from the time he ties up at his headquarters. FRA is aware that the law will substantially diminish carrier flexibility in the use of signal employees for trouble calls. Indeed, that seems to be the clear intent of Congress. Failure to recognize actual time spent responding to and returning from trouble calls as time on duty would emasculate the law. It should be emphasized, however, that time on duty is limited to actual time spent in service for the carrier. Thus, if an individual devotes only 2 hours to a call for which he receives 2 hours and 40 minutes overtime pay under a collective bargaining agreement, only the actual time worked (2 hours) is counted for purposes of the Act.

Example 5–A. Signalman C, some time after returning home following a regular 8-hour work day, receives a trouble call to repair a signal which displays a false restrictive aspect. The work location is about twenty miles from his residence. Signalman C immediately puts on work clothing and departs for the work site, repairs the difficulty, and returns home, consuming 2 hours. Signalman C receives 2 hours 40 minutes of overtime pay for the trouble call. On these facts, Signalman C has been on duty for 10 hours (8+2=10) in broken service. Signalman C may work no more than an additional 2 hours during the 24-hour period which commenced when he began his regular duty tour, unless he is called for an emergency (see below).

A release period is considered off-duty time if it provides a meaningful period of relaxation and if the employee is free of all responsibilities to the carrier. If there are no food service facilities available in the vicinity of the point of duty assignment, transportation time to and from the facility is counted as time on duty with respect to any meal period.

Emergencies. In case of emergency, an individual engaged in installing, repairing or maintaining signal systems may be permitted or required to work an additional four hours (up to 16 rather than 12) in a 24-hour period. An emergency ceases to exist when the signal systems are restored to service.

An emergency is a condition caused by an accident, act of God, or equipment malfunction resulting in a disruption of the signal system which could materially affect safety of railroad operations.

Examples of disruptions which materially affect safety include false proceed indications, malfunctioning grade crossing protection devices, and major signal system failures caused by storms, natural disasters, power failures and accidents. A false restrictive condition, by itself, is not an emergency within the meaning of the Act.

It is important to remember that the existence of a bona fide emergency does not excuse the failure to provide a proper off-duty period after the emergency is over. In addition, the existence of a continuing emergency will not always justify working on employee a full 16 hours. Consider the following:

Example

Facts: Regular duty tour 7:00 a.m.–3:00 p.m. (8 hours). Trouble call, 10:00 p.m.–12:00 midnight (2 hours). Emergency call (valid continuing emergency), 3:00 a.m.–

Effect of law: The individual must be released for 8 hours rest not later than 7:00 a.m., even though at that time he has worked only 14 hours total. The reason for this is that the 24 hour period which commenced at 7:00 a.m. the previous day has now expired.

GENERAL PROVISIONS (APPLICABLE TO ALL COVERED SERVICE)

Commingled service. All duty time for a railroad even though not otherwise subject to the Act must be included when computing total on-duty time of an individual who performs one or more of the types of service covered by the Act. This is known as the principle of "commingled service".

For example, if an employee performs duty for 8 hours as a trainman and then is used as a trackman (not covered by the law) in the same 24-hour period, total on-duty time is determined by adding the duty time as trackman to that as trainman. The law does not distinguish treatment of situations in which non-covered service follows, rather than precedes covered service. The limitations on total hours apply on both cases. It should be remembered that attendance at required rules classes is duty time subject to the provisions on "commingling". Similarly where a carrier compels attendance at a disciplinary proceeding time spent in attendance is subject to the provisions on commingling.

When an employee performs service covered by more than one restrictive provision, the most restrictive provision determines the

total lawful on-duty time. Thus, when an employee performs duty in train or engine service and also as an operator, the provisions of the law applicable to operators apply to all on-duty and off-duty periods during such aggregate time.

An employee subject to the 12 hour provision of section 2 of the law does not become subject to the 9 or 12-hour provisions of section 3 merely because he receives, transmits or delivers orders pertaining to or affecting the movement of his train in the course of his duties as a trainman.

Signalmen assigned to "gangs" sometimes travel for many hours over great distances by railroad or highway, transporting equipment, trailers, and personnel to new work locations. Often days spent in travel will not involve any actual signal work. However, such travel does constitute "time on duty in other service performed for the common carrier * * *." Consequently, if a gang, after receiving the statutory off-duty period of 8 or 10 hours, travels for 14 hours to reach a new work area, no violation of the Act has occurred. However, that gang must be given ten consecutive hours off duty before being permitted to commence a work tour involving covered service.

It should be noted that if a signal gang works 8 hours in covered service and then travels for 5 hours without an intervening period of rest, a violation has occurred with respect to each gang member, the two periods being "commingled".

Sleeping quarters. Under the 1976 amendments to the Act it is unlawful for any common carrier to provide sleeping quarters for persons covered by the Hours of Service Act which do not afford such persons an opportunity for rest, free from interruptions caused by noise under the control of the railroad, in clean, safe, and sanitary quarters. Such sleeping quarters include crew quarters, camp or bunk cars, and trailers.

Collective bargaining. The Hours of Service Act prescribes the maximum permissible hours of service consistent with safety. However, the Act does not prohibit collective bargaining for shorter hours of service and time on duty.

Penalty. The penalty provisions of the law apply to the carriers and not their employees.

Each and every violation of the requirements of the Hours of Service Act concerning duration of service subjects the offending railroad to be a penalty of $500. Each employee required or permitted to be on duty for a longer period than prescribed by law represents a separate and distinct violation and subjects the railroad to the statutory penalty of $500.

Statute of limitations. No suit may be brought after the expiration of two years from the date of violation.

Exemptions. A railroad which employs not more than 15 persons covered by the Hours of Service Act (including signalmen and hostlers) may be exempted from the law's requirements by the FRA after hearing and for good cause shown. The exemption must be supported by a finding that it is in the public interest and will not adversely affect safety. The exemption need not relate to all carrier employees. In no event may any employee of an exempt railroad be required or permitted to work beyond 16 hours continuously or in the aggregate within any 24-hour period. Any exemption is subject to review at least annually.

[FR Doc.76-28294 Filed 9-27-76;8:45 am]

National Highway Traffic Safety Administration

[Docket No. EX76-3; Notice 2]

WAYNE CORP.

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

Correction

In FR Doc. 76-24445, appearing at page 35555, in the issue for Monday, August 23, 1976 the following change should be made:

On page 35556, in the first column, the third line from the bottom of the first complete paragraph should read, "hicle or, alternatively, a statement of specific conditions of final manufacture under which GM specifies that the complete vehicle".

Office of the Secretary

[OST File No. 46; Notice 76-11]

CONVERSION OF ABANDONED RAILROAD RIGHTS-OF-WAY TO ALTERNATE USES

Request for Information and Public Comment

The Department of Transportation, pursuant to section 809(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 is conducting a study of the alternate use potential of abandoned railroad rigths-of-way. Since 1970, over 10,000 miles of railroad right-of-way have been abandoned in the United States. Another 6,000 miles are currently pending abandonment by railroads upon approval of the Interstate Commerce Commission. Considerable interest has been expressed in converting abandoned rights-of-way into recreational trails, conservation areas, roads, and utility corridors, and other uses, or combinations of uses.

The purpose of the study is to determine the alternate use potential of abandoned rights-of-way and to make recommendations for appropriate public policy regarding the re-use of abandoned rights-of-way. The study will include the following elements:

1. An inventory of abandoned railroad rights-of-way and an evaluation of their suitability for alternate uses,

2. An evaluation of the advantages and costs of establishing a rail bank for the purpose of preserving selected rights-of-way for future rail transportation,

3. A survey of Federal, State, and local programs to determine how rights-of-way are being utilized by public agencies, and to determine the effectiveness of such programs, and

4. An evaluation of recommendations for more effective public utilization of abandoned rights-of-way, including legislative, regulatory, administrative and funding proposals.

To assist in this study, interested members of the public are invited to submit information, comments, and recommendations for alternative uses and future public policy regarding abandoned rights-of-ways. For further information contact the project manager, Kendall Wilson, Office of Environmental Affairs (TES-70), telephone number, (202) 426-4388. Written submissions should identify the file number (OST File No. 46) and should be addressed to Docket Clerk, Office of the General Counsel (TGC-10), Department of Transportation, 400 Seventh Street, S.W., Washington, D.C., 20590. All correspondence received by November 1, 1976, will be given full consideration. Correspondence received after that date will be considered to the extent practicable. All submissions will be available for inspection and copying in the Office of the Assistant General Counsel for Operations and Legal Counsel, room 10100 Nassif Building, 400 Seventh Street, S.W., Washington, D.C., between 9:00 a.m. and 5:30 p.m. Monday through Friday except Federal holidays.

Issued in Washington, D.C., on September 21, 1976.

JUDITH T. CONNOR,
Assistant Secretary for Environment, Safety and Consumer Affairs.

[FR Doc.76-28295 Filed 9-27-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25398; Order 76-9-130]

AIR CARRIER AGREEMENT

Order Concerning Air Freight Credit Billing and Collection Practices

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of September 1976.

By Order 75-12-149, December 30, 1975, the Board conditionally approved an agreement establishing new uniform domestic (interstate and overseas) air freight credit billing and collection practices.[1] The agreement would have had all billings to all forwarders processed through a central settlement bank, and would have been opened to other shippers after the first year of operation, provided such nonforwarder shippers represented at least $1 million in annual freight billings. The Board found the foregoing distinctions between forwarder and nonforwarder participation to be undesirable and conditioned its approval of the agreement accordingly.

By amendment to the agreement, the carriers now propose certain revisions to satisfy the Board's conditions on approval of the agreement. Thus, the carriers have:

[1] Appendix A (filed as part of the original document) lists the carriers who are parties to both the existing credit agreement, the new agreement, and the amended agreement.

1. Eliminated the 1-year waiting period and the required $1 million freight revenue billings as participation criteria for commercial shippers (nonforwarders);

2. Eliminated the mandatory participation of all air freight forwarders;

3. Established that all shippers (forwarder and nonforwarder) having $250,000 or more in annual freight billings will be billed through the new Bank Settlement Plan (Plan); [3] and

4. Agreed to establish provisions whereby other shippers (with billings below $250,000) may voluntarily participate in the Plan in the near future.

Other major provisions of the agreement remain unchanged, namely, carrier billing to shippers and recap thereof to a central bank at 10-day intervals, a bank recap of all carriers' billings to each shipper within a second 10-day interval, and 10-day settlement (payment) thereafter.

The carriers also seek permission to meet at an early date to discuss and resolve uniform language to reflect the agreement in their tariffs.[5]

The Plan will not take effect until after the carriers—with the invited participation of interested shippers—develop precise criteria for determining which shippers meet the $250,000 annual billings standard, as well as resolve numerous other details affecting the implementation, functioning, and administration of the Plan. Any such additional amendments to the agreement will be filed for advance approval by the Board.

The Air Freight Forwarder Association (AFFA) has filed comments on the amendment to the agreement, stating that no agreement on credit billing and collection matters is necessary, but that as long as the agreement applies equally to nonforwarder and forwarder shippers they do not object to the agreement; that there has been no showing of a need for the direct air carriers to meet, discuss, and agree on uniform tariff rules implementing the agreement; and that there is similarly no need for the Board to authorize over a year in advance discussions to review the agreement. In its answer to AFFA, the ATA states that the Board has previously considered and addressed AFFA's arguments.

Upon consideration of the agreement, as amended, the pleadings, and all other relevant matters, the Board does not find the agreement is adverse to the public interest or in violation of the Act and concludes that it should be approved.

The carriers have satisfied the Board's previously stated conditions on approval of the original agreement, and no further comment thereon seems necessary.[4] However, AFFA's views on further carrier discussions of the agreement warrant comment. As to discussion of tariff rules implementing the agreement, we agree that establishment of uniform credit and billing tariff rules would be in the public interest and such discussions will be specifically authorized. Also we believe it is desirable to permit the requested carrier discussions after the initial period of operation of the Plan both to review first-year experience with the Plan and to permit consideration of the further adjustments to the Plan the Board indicated in Order 75-12-149 it expected the carriers to explore. Such modifications include particularly the lowering of the $250,000 billing entry figure in order to embrace a greater number of shippers and their billings, as well as the establishment of other criteria for smaller shippers (with lesser billings) whereby such shippers might voluntarily participate in the bank settlement Plan.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a), 412, and 414 thereof.

It is ordered, That:

1. Agreement C.A.B. No. 24277, as amended by Agreement C.A.B. No. 24277-A1 is approved, as well as the request of the carriers to meet and discuss tariff rules to implement such Agreement, subject to the conditions that:

(a) All U.S. certificated route air carriers engaged in interstate or overseas air transportation are authorized to engage in such discussions with respect to air freight credit billing and collection practices in interstate or overseas air transportation, provided that:

(b) An agenda of matters to be discussed shall be filed with Board in this docket at least 5 calendar days in advance, with respect to any meeting called pursuant to this order, to be attended by only direct air carriers;

(c) An agenda of matters to be discussed shall be filed with the Board in this docket at least 15 calendar days in advance, with respect to any meeting called pursuant to this order, to be attended by both direct air carriers and shippers (including indirect air carriers);

(d) Any interested shipper (including indirect air carriers) may advise the Air Transport Association that it is interested in these discussions, and all meeting notices and agendas shall also be mailed to such interested shippers and indirect air carriers, with such notice to include an invitation to submit comments upon the agenda matters, and to request appointments for personal appearances at the carriers' meetings;

(e) The Board reserves the right to have one or more observers in attendance at all meetings of the carriers;

(f) Complete and accurate minutes shall be kept of all meetings, and a true copy thereof filed with the Board not later than 15 days (excluding Saturdays and Sundays) after the conclusion of each meeting; and

(g) Any agreement or agreements reached as a result of such discussions shall be filed with the Board in accordance with Section 412 of the Act and approved by the Board prior to being filed in tariffs or otherwise placed into effect; and

2. The Board's approval of Agreement C.A.B. No. 24277 and amendment A-1 thereto will expire with December 31, 1977; and

3. This order shall be served upon all certificated scheduled direct air carriers, all domestic air freight forwarders, and all persons participating in Docket 25398, as listed in the Certificate of Service accompanying Agreement C.A.B. No. 24277 and the amendment A-1 thereto filed in such docket.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-28329 Filed 9-27-76;8:45 am]

[Docket No. 29010; Order 76-9-112]

REEVE ALEUTIAN AIRWAYS, INC.

Order Fixing Final Service Mail Rates

Issued under delegated authority September 21, 1976.

By Order 76-9-35, September 7, 1976, all interested persons, and particularly Reeve Aleutian Airways, Inc. and the Postmaster General, were directed to show cause why the Board should not adopt the proposed findings and conclusions and fix, determine, and publish the final rates proposed therein.

The time designated for filing notice of objection has elapsed and no notice of objection or answer to the order has been filed by any person. All persons have therefore waived the right to a hearing and all other procedural steps short of fixing a final rate.

Upon consideration of the record, the findings and conclusions set forth in said order are reaffirmed and adopted.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, the Board's Procedural Regulations, 14 CFR Part 302, and the authority delegated by the Board in its Organization Regulations, 14 CFR 385.16(g);

It is ordered, That:

1. The fair and reasonable rates of compensation to be paid to Reeve Aleutian Airways, Inc. by the Postmaster General, pursuant to the provisions of section 406 of the Federal Aviation Act of 1958, for the transportation of mail by aircraft over its intra-Alaska routes, the facilities used and useful therefor, and the services connected therewith are a linehaul rate of 96 cents per great-circle ton-mile and a terminal charge of 12 cents per pound originated;

2. The final service mail rates here fixed and determined are to be paid in their entirety by the Postmaster General; and

3. This order shall be served on the Postmaster General and Reeve Aleutian Airways, Inc.

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[3] All other billings would continue under the present tariff rules and Agreement C.A.B. 6150-A32.

[5] The initial agreement contained a provision calling for carrier discussion and review at the close of the first year of operation under the Plan.

[4] Because of the lapse of time since Order 75-12-149, the Board will extend its earlier-stated term of approval from July 1, 1977, to December 31, 1977, in order to permit a full-year's experience with the agreement before review.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-28197 Filed 9-27-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-42031; FRL 622-6]

MAINE

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.) and 40 CFR 171 (39 FR 36466 (October 9, 1974) and 40 FR 11698 (March 12, 1975), the Honorable James B. Longley, Governor of the State of Maine, has submitted a State Plan for Certification of private and commercial applicators of restricted-use pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis.

Notice is hereby given of the intention of the Regional Administrator, EPA, Region I, to approve this plan on a contingency basis pending promulgation of additional implementing regulations pursuant to the Maine Pesticide Control Act.

A summary of this plan follows; the entire plan, together with all attached appendices (except for sample examinations), may be examined during normal business hours at the following locations:

State of Maine, Department of Agriculture, Division of Inspections, Room 601, State Office Building, Augusta, Maine 04330.

Environmental Protection Agency, Room 2113, JFK Federal Building, Government Center, Boston, Massachusetts 02203.

Room 401, East Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460, Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA (202 755-4854.

SUMMARY OF MAINE STATE PLAN

The Maine Department of Agriculture (MDA) has been designated as the State Lead Agency for the administration of the Pesticide Applicator Certification Program, including enforcement activities. The Board of Pesticides Control (BPC) was established in the Department of Agriculture under the provisions of Title 33, Maine Revised Statutes Annotated (MRSA), Chapter 258-A, enacted in 1975 to regulate and enforce pesticide use. This Board meets at irregular intervals (8-12 times per year) and adopts, after public hearing, regulations for pesticide use, sale and disposal, and designates state-restricted and limited-use pesticides. The composition of this Board is designated in the State Plan.

Pesticides distributed within the State must be registered annually with the Department of Agriculture as provided by the Maine Pesticide Control Act of 1975, Title 7 MRSA Chapter 103, Subchapter II-A. Implementation of State pesticide regulatory and enforcement efforts is a responsibility of the Lead Agency. The agency issues applicator certificates, permits to use limited-use pesticides and special use permits for aquatic application, and coordinates field, laboratory, and office activities.

Cooperative agencies designated in the plan are the State Cooperative Extension Service (SCES) of the University of Maine, the Bureau of Forestry, Department of Conservation, and six other State Agencies. All but SCES have representation on the BPC. The special areas of interest of each State Agency having Board membership are described as they related to the protection of the environment.

Certification of commercial arborists as a subcategory of Ornamental and Turf Pest Control is delegated and will be carried out by the Arborist Board and the Bureau of Forestry, Department of Conservation as provided by interagency agreement and authorized under the Arborist Law.

The SCES will be responsible for conducting a comprehensive training program for private and commercial pesticide applicators to aid in attainment of the level of competency required for applicator certification. In addition, SCES will offer to certified applicators, on a continuing basis through MDA, approved grower, trade or commodity-oriented meetings, and any additional educational information covering subject matters believed useful to help familiarize applicators with new developments. Participation in the continuing SCES conducted education efforts may be utilized as a basis for meeting requirements for recertification. The training efforts of SCES and educational seminars are to be coordinated through the BPC and supported by the State and county extension service specialists.

Legal authority for Maine's certification program is contained in the following statutes and regulations:

1. Maine Pesticide Control Act of 1975 (Appendix E) Title 7, Maine Revised Statutes Annotated (MRSA) Chapter 103, Subchapter II-A.

2. Board of Pesticides Control (Appendix F & G) Title 22, MRSA Chapter 258-A.

3. Regulation, Maine Department of Agriculture Board of Pesticide Control. (Appendix M).

4. Arborist Law (Appendix K), Title 32 MRSA, Chapter 29.

Copies of the laws and promulgated regulations cited above are attached to the plan.

A legal opinion prepared by Maine's Attorney General in form of a memorandum cites specific legal authorities to carry out provisions of the State Plan.

The plan indicates that the State Lead Agency and cooperating agencies have sufficient qualified personnel and funds necessary to carry out the proposed programs. The funding for support of the program is appropriated for the biennium, and currently appropriated July 1, 1975 through June 30, 1977.

The State estimates that 361 commercial applicators (including 107 persons currently licensed under an existing State licensing procedure) and 2,275 private applicators will need to be certified. All applicators certified to use restricted-use pesticide will be provided with credentials that will also authorize purchase from a dealer licensed to sell restricted-use products. A special use permit will be required in addition to use pesticides designated State-limited use.

The Maine Department of Agriculture agrees to furnish the Administrator a detailed annual report by April 1 of each year and other reports as requested in conformity to 40 CFR 171.7(d).

Maine intends to adopt all ten (10) major categories of commercial applicators as listed in 40 CFR 171.3 and, in addition, requests permission to add an eleventh category to be designated Aerial Pest Control.

Maine feels the certification of the aerial applicator in a special category is necessary to assure that pesticide applications made by this technique are by individuals knowledgeable in specialized methodology, potential problems, and hazards associated with aerial applications. The State further feels certification of this group will aid in preventing or minimizing potential hazards to adjacent nontarget objects and areas.

Subcategories of commercial applicators proposed in the State Plan are as follows:

1. Agricultural Pest Control
   - a. Animal
   - b. Potatoes
   - c. Apples
   - d. Blueberries
   - e. Vegetables
   - f. Grain
   - g. Non-Food Crops
2. Forest Pest Control
   - a. General
   - b. Timber Stand Improvement
3. Ornamental and Turf Pest Control
   - a. Arborists
   - b. Floral and Turf Specialists
7. Industrial, Institutional, Structural and Health Related Pest Control
   - a. Structural Control
   - b. Outdoor Rodent Control
   - c. Biting Fly Control
   - d. Other Pests
8. Public Health Pest Control
   - a. Biting Fly Pests
   - b. Other Pests
11. Aerial Pest Control
   - a. Agricultural by Commodity
   - b. Forest
   - c. Right-of-Way
   - d. Public Health

In Maine, commercial applicators using restricted-use pesticides and general use pesticides in custom applications, and private applicators using restricted-use pesticides in production of an agricultural commodity are required to be certified. Regulations provide that no person other than certified applicators may use State limited use or restricted-use pesticides.

To become certified, commercial applicators will be required to pass a written examination administered by the BPC that will be of closed-book type for the portion covered by the general standards provisions and of open-book type for portions covering specific standards requirements for each category or subcategory. Sample questions were furnished for some categories, and sample questions for the remaining categories will be furnished to the Administrator for review and approval before contingent approval of the State Plan is granted.

Any applicant who fails an examination may request reexamination. A 30-day waiting period is required and each applicant will be permitted up to three examination tries during the period of a year. Attendance at training sessions or use of training materials offered to the applicant is voluntary.

To become certified as an aerial applicator, an applicant will be required to pass three kinds of examinations which cover requirements for 1) general standards, 2) specific standards for the category aerial applicator and 3) specific standards for each category or subcategory of intended commercial operation.

Private applicators desiring certification may choose from two options that include 1) successful completion of a MDA/EPA approved training course, completion of a State administered written examination, later graded by the applicant and discussed, and by signing a form required of training option participants that is vertified by an official of BPC or 2) passage of written examination administered without benefit of training and graded by an agent of MDA.

A Pesticide Applicator Training Manual, developed as a core-type manual by the Northeast Regional Pesticide Coordinators, and ancillary training aids similarly developed, together with SCES Information Sheets applicable to specific use situations in Maine will form the basis for training of applicators. Examinations used in the determination of competency will be based upon standards set forth in 40 CFR 171.

Maine proposes to handle certification of private applicators unable to read on a case-by-case basis as provided in 40 CFR 171.5(b). The specific requirements of 40 CFR 171.5(a)(2) will be met by utilizing oral examinations individually administered and certification will be limited to use of pesticides covered in the examination.

After competency has been determined and before certification credentials are issued, each commercial applicator is further required to show evidence of financial responsibility and presentation of reports are required by BPC. Payment of an annual fee of ten dollars ($10.00) is required before issuance of commercial applicator certificates (except governmental employees); no fee is required for issuance of private applicator certificates.

The Maine State Plan indicates that within sixty (60) days of the approval of the Government Agency Plan (GAP) by EPA, Maine will submit a statement in accordance with 40 CFR 171.7(e)(4)(i).

Maine has no Indian Governing Body subject to jurisdiction of the United States.

Maine will consider reciprocity with other States and copies of such agreements will be furnished EPA. At present, Maine has no formal agreement on reciprocity with other States involving pesticide applicator certification.

Other regulatory activities of the Maine State Plan which supplement the certification program include a State requirement that a commercial applicator secure, through BPC, an approved permit before applying a pesticide to an aquatic site. Application of a pesticide to an aquatic site also requires a discharge license obtainable from DEP (Department of Environmental Protection) which requires the applicator to observe mandatory reporting requirements.

Other regulatory activities which supplement the certification program include state registration, classification for restricted use or limited use, and inspection and sampling of pesticide products. All dealers handling restricted use pesticides are trained, examined, and licensed. A record is required of sales of restricted-use pesticides by dealers and use by certificate and permit holders. Other regulatory authorities cover pesticide disposal, pesticide container reuse and safe handling.

To assure maintenance of a high level of competency among commercial and private applicators, and to serve as a basis for certificate renewal, training will be offered on a timely basis by the SCES and other approved organizations. Separate training sessions will be offered, organized on a commodity group basis for private applicators and on a category basis for commercial applicators. An official verification of attendance and active participation in a BPC approved training program during one of the last years before each fifth yearly renewal will be required for certification for commercial applicators and on a two year basis for renewal of private applicator certificates. A certificates holder may rather than meet the training requirement elect to take and pass the appropriate examinations for renewal of certification.

All arborists holding a valid license issued by the Arborist Board, Maine Bureau of Forestry, before October 21, 1976, will be required to be examined only for determination of competency covering General Standards provisions before that date. Maine believes that persons already licensed as arborists have met these requirements for competency of specific standards and are in compliance with 40 CFR 171.4(c)(3) and accordingly requested a determination of their acceptancy. The Agency has reviewed Maine's procedure for licensing arborists and concurs with the position that currently licensed arborists have demonstrated competency as required for this subcategory to meet specific category certification standards of 40 CFR 171.4(c)(3).

Enforcement of the Maine certification program will be carried out by the Maine Department of Agriculture through the Board of Pesticide Control's authority. Regulations pertaining to enforcement activities are included.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the State of Maine to the Chief, Pesticides Branch, Region I, Environmental Protection Agency, Room 2113, JFK Federal Building, Boston, Massachusetts 02203. The comments must be received on or before October 28, 1976 and should bear the identifying notation (OPP-42031). All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations from 9:00 a.m. to 4:00 p.m., Monday through Friday.

Dated: August 24, 1976.

ROBERT C. THOMPSON,
Acting Regional Administrator,
Region I.

[FR Doc.76-28251 Filed 9-27-76;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

CONSENT TO SERVICE OF PERSONS CONVICTED OF OFFENSES INVOLVING DISHONESTY OR A BREACH OF TRUST AS DIRECTORS, OFFICERS OR EMPLOYEES OF INSURED BANKS

Statement of Policy

The Board of Directors of the Federal Deposit Insurance Corporation approved the following statement of policy at its offices in Washington, D.C., on the 21st day of September, 1976:

Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1819) provides in part that:

> Except with the written consent of the Corporation, no person shall serve as a director, officer, or employee of an insured bank who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust.

The Corporation does not view section 19 as being punitive in intent. Rather, the essential criterion in assessing such applications is whether the prospective director, officer or employee constitutes a significant threat or risk to the safety and soundness of the applicant bank, and our policy is to approve applications in which this risk is absent.

Existing Corporation policy on section 19 applications has involved consideration of the nature and circumstances of the offense, the evidence of rehabilita-

tion, the position to be held by the employee in the bank and the applicability of the bank's fidelity bond coverage to the employee. These remain important considerations in determining the risk to the bank in the employment of the prospective employee.

On this basis, many applications can be routinely approved because the prospective employee will not be in a position to constitute any substantial risk to the safety and soundness of the bank. Employees who will occupy clerical, maintenance or service positions or, in many banks, administrative or teller positions generally pose no such risk, and on application from the board of directors of the bank, normally will be able to be routinely approved. A more detailed analysis will be required in the case of directors, officers, or other employees in a position to control or influence the disposition of sums of money large in relation to the size of the bank.

By order of the Board of Directors, September 22, 1976.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.76-28290 Filed 9-27-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Revised Special Correction Amounts Under Entitlements Program

On July 22, 1976, the Federal Energy Administration ("FEA") issued a Notice of Special Correction Amounts Under Entitlements Program (41 FR 31794, July 29, 1976) which set forth the proposed aggregate net plus or minus dollar amounts of the special corrections made under § 211.67(j)(2) for each affected firm under the domestic crude oil allocation program.

In reviewing the accuracy of the data upon which the special corrections had been based, FEA indicated that it had provided each firm with data from all original and amended reports filed by May 14, 1976 and requested certifications confirming the accuracy thereof. In addition, FEA stated that in cases where firms had included inaccurate data in their amended reports, corrected data would be received by FEA not later than August 13, 1976. Most firms confirmed the accuracy of FEA's data in this regard, although a number of firms submitted corrected data. To reflect these corrections, the notice issued July 22, 1976 has been revised and is contained in the Appendix to this notice. FEA has mailed to each affected firm a corrected entitlement notice applicable to each month in the period November 1974 through August 1975 and the relevant calculation summary sheet for each such month.

As provided in § 211.67(j)(2) each firm's net plus or minus dollar position under the program for the first 10 months for which the program was in effect will be reflected in the entitlements notices in the months September 1976 through April 1977, substantially equal adjustments to be made in each such month.

Any firm as to which the requirement to purchase entitlements under these procedures will constitute a severe hardship or gross inequity may seek exception relief from these requirements in accordance with the provisions of Subpart D of Part 205.

Issued in Washington, D.C., on September 21, 1976.

MICHAEL F. BUTLER,
General Counsel.

Appendix—Domestic crude oil allocation program revised special correction amounts

Short name	Net dollar effect	
	Gain	Loss
A-Johnson		$378,371.75
Agway		1,460.00
Allied		4,206.61
American Petrofina	$3,871,940.14	
Amerada-Hess		1,879,174.20
Amoco		1,059,772.51
Apco		85,652.94
Apex		560.00
Arco		8,920,231.55
Arizona	21,755.76	
Asamera	16,568.15	
Ashland		1,476,902.78
Asiatic		181,502.00
Atlantic-Cement	12,356.00	
Augsbury		265.00
Bayou	3,634.13	
Beacon		327,092.06
Belcher		29,882.00
Blue Ridge		19,367.00
C. & H		708.75
Calumet		13,306.65
Canal		84,822.00
Caribou	6,510.98	
Castle		16,565.00
Central		11,844.00
Champlin	801,993.34	
Charter	774,872.70	
Cirillo		64,603.00
Citgo		263,402.86
Claiborne	1,110,997.64	
Clark		150,956.49
Coastal	1,678,536.39	
Colonial		23,772.00
Colonial-Oil		
Con-Ed		137,932.00
Con-Ref	3,487.00	
Conoco	538,201.15	
Consumers-Power		28,178.00
Coreo		243,594.03
Cra-Farmland		150,831.36
Cross	185,208.67	
Crown		133,927.67
Crystal-Oil		776,217.35
Crystal-Ref		33,848.04
Deepwater		5,701.00
Delta	50,595.24	
Detroit-Ed	46,390.00	
Diamond	258,680.03	
Dorchester		3,536.20
Dow	8,465.56	
E-Seaboard		61,751.00
Eastern		
Eddy	4,257.04	
Edgington-Oil	33,271.56	
Edgington-Oxn		338.69
Elm		20,320.00
Energy-Fuels		
Enterprise		2,398.00
Evangeline	3,209.15	
Exxon		253,137.06
F-Fletcher	73.00	
Famariss		2,589.65
Farmers-Un		14,177.84
Fletcher	841,094.77	
Flint		495.11
Florida-Power	42,406.00	
Fort-Neck		
Gary		4,489.09
Gen-Portland		1,010.00
Getty		271,550.13
Giant		11,587.34
Gibbs		23,398.00
Gladieux	15,909.54	
Goetz		
Golden-Eagle		163,693.63
Golden-Eagle-N.Y	136,191.00	
Good-Hope		27,774.99
Great-Northern		7,917.00
Guam		140,918.41
Gulf		778,645.16
Gulf-Sts	4,548.59	
Hartwell		
Hirt	127,083.95	
Howard		91,715.75
Howell	72,498.27	
Hunt		31,605.81
Husky	28,049.43	
Indiana-Farm		29,275.74
Intl-Paper	4,649.00	
Irving		3,930.00
J. & W		82,789.63
K-H-White		2,241.00
Kaiser		
Kentucky		1,856.32
Kerr-McGee	1,734,271.12	
King		
Koch		136,947.14
La-Water	460,540.00	
Lagloria		4,627,583.12
Lakeside		15,141.91
Laketon		401,484.00
Little-Amer	20,451.11	
MacMillan		220,395.89
Marathon		356,187.11
Marion		50,025.23
Meenan		
Mid-Amer		20,322.14
Mid-Tex	11,060.99	
Midland		7,322.99
Mobil		12,603,452.70
Mohawk	53,468.06	
Monsanto		39,056.16
Morrison	125.45	
Mountaineer	282.02	
Murphy	13,261.19	
N-Amer-Petro		133,149.98
Narragansett		7,289.00
Natl-Coop	23,303.95	
Navajo		114,834.71
New England-Petro		232,276.00
New England-Power		4,540.00
Newhall	5,966.81	
Newman		4,053.00
Norco	3,896.23	
Northeast-Petro		57,432.00
Northern-N.J		
Northland		3,208.64
Northville		49,104.25
Oil-Shale		160,298.28
OKC	125,978.63	
Orange & Rockland	4,076.50	
Pace		
Pasco	296,073.04	
Patchogue		18,464.00
Patterson		
Pennzoil		28,390.61
Pepco		60,778.00
Petro-Heat-Conn		36,672.00
Petro-Heat-Pa		20,644.00
P.G. & E		29,810.00
Phillips	6,344,293.07	
Pioneer		306.20
Pittston		70,038.00
Placid		81,930.62
Plateau		30,342.76
Powerine	17,201.57	
Pride		21,096.36
Prulease		55,147.00
Publicker		
Quaker-St		114,850.30
Remington		5,653.00
Rico		3,026.00
Road-Oil		437.89
Rock-Island	34,272.79	
Rockway		
Royal		8,742.00
Saber-Tex		481,220.78
Sabre-Cal		7,722.95
Sage-Creek		436.24
San-Joaquin		96,520.47
Sears		1,965.00
Seminole		188,501.94
Shaheen		
Shell	21,655,997.05	
Sigmor	113,684.55	
Signal		
Skelly	50,183.17	
So-Hampton	61,182.71	
Se-Terminal		
Socal		364,046.45
Socaledison		5,490.00
Schio	1,244,206.50	
Somerset		19,426.08
Sound		9,545.96
Southland	12,557.20	
Southwestern		
Stephens		
Steuart		56,045.00
Stillings		
Sunland	393,682.83	
Sunoco		4,680,803.13
Swann		29,431.00
Tarricone		7,575.00
Tauber		5,230.00

Short name	Net dollar effect	
	Gain	Loss
Tenneco		3,231,838.76
Tesoro	217,332.40	
Texaco	2,550,205.75	
Texas-Asph		446,489.06
Texas-City		1,824,946.25
Texas-Fuel		
Thagard		288.00
The-Refinery		164,810.71
Thriftway		6,735.53
Thunderbird		18,488.49
Time		
Tonkawa		12,135.87
Total-Leonard		119,518.73
Union-Oil	4,992,801.04	
Union-Petro		
Union-Texas	14,262.36	
Untd-Ind	3,405.25	
Untd-Ref		912,550.75
US-Oil		30,545.60
Ven-Fuel		5,605.00
Vi-Oil		1.93
Vickers	42,251.97	
Vulcan		7,769.52
Wallace		
Waller		9,461.00
Warrior		318,634.48
Webber	11,180.00	
Wellen		7,235.00
West-Coast		157,967.49
Western	444,980.00	
Whaleco		2,376.00
Wickett		295.79
Winston		634.75
Wireback	2,019.28	
Witco		15,475.18
Wyatt		44,502.00
Yetter		421.64
Young		306.00
Total	51,661,897.77	51,661,897.77

[FR Doc.76-28152 Filed 9-22-76;10:22 am]

FEDERAL MARITIME COMMISSION

GULF/MEDITERRANEAN PORTS CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement, accompanied by a statement of justification, has 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 the agreement and the statement of justification at the Washington office of the Federal Maritime Commission, 1100 L Street, NW. Room 10126; or may inspect the agreement and the statement of justification 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 October 19, 1976. 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.

Notice of agreement filed by:

Edward S. Bagley, Esquire, Terriberry, Carroll, Yancey & Farrell, 2141 International Trade Mart, New Orleans, Louisiana 70130.

Agreement No. 134-39, among the members of the above named conference, amends the basic agreement by deleting the U.S. South Atlantic Range from the geographic scope of the conference and provides for its coordination with the approval of the U.S. South Atlantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreement, pending Agreement No. 10261.

Dated: September 23, 1976.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-28331 Filed 9-27-76;8:45 am]

[Docket No. 76-53; Agreements Nos. 10040-2, 10153]

UNITED STATES/GUATEMALA TRADE AGREEMENTS

Order of Investigation and Hearing

Agreement No. 10153 is an arrangement between Flota Mercante Gran Centroamericana, S.A. (Flomerca) and Coordinated Caribbean Transport, Inc., (CCT), whereby CCT has become associated with Flomerca for the transportation of cargo from Miami, Florida to Guatemala. Agreement No. 10040-2 is an extension of Agreement No. 10040, a cooperative working arrangement between Flomerca and Pan American Mail Line, Inc. (Panam) establishing Flomerca Trailer Service, a through trailer service in the trade between ports of Florida and ports of Santo Thomas de Castilla, Guatemala and Puerto Cortez, Honduras, and via those two ports to and from inland points in Guatemala, El Salvador and Honduras.

Agreement No. 10153 became effective August 13, 1975, and by its terms shall continue in operation until July 9, 1977. Agreement No. 10040 was originally approved on May 31, 1973. Agreement No. 10040-2 has been approved pending the outcome of this investigation or until it expires under its terms on May 31, 1977.

Under the terms of Agreement No. 10153, CCT will pay Flomerca five percent of the gross ocean/inland freight revenue on all cargoes it transports to any point in Guatemala. In return Flomerca (1) will, jointly with CCT, meet with government agencies to coordinate movements of agricultural products; (2) will keep CCT informed of market conditions and opportunities; (3) will prepare and present all necessary documents to Guatemalan authorities for waiver for import cargo and assist CCT to obtain the necessary permits for its business in Guatemala; (4) advertise in Guatemala that CCT, as an associate, has authority to transport duty exempt cargo; and (5) prepare and present all necessary documents authorizing importers using CCT services to receive industrial development law benefits. In addition, CCT agrees to preferably export perishable products originating in Guatemala.

Under Agreement No. 10040, Flomerca has contributed Q50,000 (fifty thousand dollars), one charter vessel, and an administrative staff in Guatemala. Panam has provided three vessels, all other equipment, and all other financing for the operation. The Agreement calls for Flomerca to receive 10 percent of the profits initially and up to 51 percent in subsequent years. Other than Flomerca's initial investment of Q50,000, Panam is assigned all risk of losses that may occur.

In Docket No. 76-47, "Cargo Pooling, Sailing and Equal Access Agreement—U.S. Gulf/Guatemala Trade," we placed Agreement No. 10234, between Flomerca and Delta Steamship Lines, Inc., under investigation. We stated that agreement may involve monopolization and horizontal market division and price fixing considerations. We further stated that the anticompetitive features of Agreement No. 10234 may not be justified by a serious transportation need, necessary to secure important public benefits or in furtherance of a valid regulatory purpose.

Agreements Nos. 10153 and 10040-2 are similar to Agreement No. 10234 in that all three agreements cover the U.S./Guatemala trade and all may in part be a result of the Guatemalan preference laws. Guatemala Decree No. 41-71 establishes penalties of 50 percent of the freight value to be levied on any goods imported into Guatemala which are duty free under the Guatemalan industrial development laws or the Central American Agreement on Tax Incentives for Industrial Development and which are not carried on Guatemalan National Flag Ships or their affiliate carriers.

Upon consideration of the above matters, in order for the Commission to discharge its duties to protect the public interest, examine the antitrust ramifications, and provide Panam, CCT and Flomerca an opportunity to demonstrate any need for the anticompetitive restraints, an investigation and hearing will be ordered.

It is further ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, a proceeding is hereby instituted to determine whether Agreements Nos. 10040-2 and 10153 are unjustly discriminatory or unfair as between carriers, shippers, exporters or importers of the United States, are contrary to the public interest, or are in violation of the Shipping Act, 1916, and therefore, whether Agreements Nos. 10040-2 and 10153 should be disapproved, cancelled, or modified, or granted continued approval.

It is further ordered, That Flota Mercante Gran Centroamericana, S.A., Co-

ordinated Caribbean Transport, Inc., and Pan American Mail Line, Inc., are hereby made respondents in this proceeding.

It is further ordered, That the matter be referred for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges, to be held on a date and at a place set by the presiding Administrative Law Judge; Provided, however, that the said hearing commence on or before January 31, 1977.

It is further ordered, That notice of this Order be published in the FEDERAL REGISTER, and that a copy thereof and notice of hearing be served upon respondents.

It is further order, That any person other than respondents having an interest and desiring to participate in this proceeding, shall file a petition for leave to intervene in accordance with Rule 5(1) (46 CFR 502.72) of the Commission's rules of practice and procedure.

And it is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-28332 Filed 9-27-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. CS76-73, et al.]

KOCH INDUSTRIES, INC., ET AL.

Notice of Applications for "Small Producer" Certificates [1]

SEPTEMBER 20, 1976.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 20, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction confered upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

Docket No.	Filing date	Applicant
CS76-73	May 10, 1976	Koch Industries, Inc., Box 2256, Wichita, Kans. 67201.
CS76-677	Apr. 16, 1976	Trusts U/D Donaldson Brown, 1213 First National Bank Bldg., Fort Worth, Tex. 76102.
CS76-919	June 25, 1976	Roy G. Nivens and Frances L. Nivens, P.O. Box 479, Stinnett, Tex. 79083.
CS76-920	June 23, 1976	Clarke Corp., P.O. Box 148, Medicine Lodge, Kans. 67104.
CS76-921	June 28, 1976	Alan H. Talley, 177 Pomeroy Dr., Shreveport, La.
CS76-922	do	M. D. Williams and Ruth Saranko, 4520 East Gilbert, Wichita, Kans. 67218.
CS76-923	do	Brady M. Lowe, P.O. Box 763, Hobbs, N. Mex. 88240.
CS76-1090	Aug. 27, 1976	W. R. Murfin, 617 Union Center, Wichita, Kans. 67202.
CS76-1098	Aug. 30, 1976	Big Lake Gas Corp., 700 Praetorian Bldg., 1607 Main St., Dallas, Tex. 75201.
CS76-1099	do	Intramerican Funds, Inc., 1160 Mercantile Continental Bldg., Dallas, Tex. 75201.
CS76-1100	do	C. B. Harrison, Jr., 1160 Mercantile Continental Bldg., Dallas, Tex. 75201.
CS76-1101	do	J. C. Man, Jr., 1160 Mercantile Continental Bldg., Dallas, Tex. 75201.
CS76-1102	do	Harry Bock, 1160 Mercantile Continental Bldg., Dallas, Tex. 75201.
CS76-1103	Aug. 27, 1976	The First National Bank & Trust Co. of Tulsa, co-trustee of the Colette H. Hohnstone Trust, P.O. Box 1227, Tulsa, Okla. 74193.
CS76-1104	do	The First National Bank & Trust Co. of Tulsa, co-trustee of the John V. Hanney Trust, P.O. Box 1227, Tulsa, Okla. 74193.
CS76-1105	do	The First National Bank & Trust Co. of Tulsa, agent for the Eileen H. Romano Trust, P.O. Box 1227, Tulsa, Okla. 74193.
CS76-1106	do	The First National Bank & Trust Co. of Tulsa, agent for the Patricia Waschka Trust, P.O. Box 1227, Tulsa, Okla. 74193.
CS76-1107	do	The First National Bank & Trust Co. of Tulsa, agent for Eileen Golbensky Trust, P.O. Box 1227, Tulsa, Okla. 74193.
CS76-1108	do	The First National Bank & Trust Co. of Tulsa, as agent for F. George Heinze Trust, P.O. Box 1227 Tulsa, Okla. 74913.
CS76-1109	do	The First National Bank & Trust Co. of Tulsa, agent for the Sergio Romano Children's Trust, P.O. Box 1227, Tulsa, Okla. 74193.
CS76-1110	Sept. 1, 1976	L & B Oil Company, Inc., P.O. Box 19236, Houston, Tex. 77024.
CS76-1111	Sept. 2, 1976	Ray L. Brown, P.O. Box 19236, Houston, Tex. 77024.
CS76-1112	do	J. C. Coldiron, M.D., Manchester, Ky. 40962.
CS76-1113	Sept. 3, 1976	Coronada Oil Co., 512 Colorado Bldg., 1615 California St., Denver, Colo. 80202.
CS76-1114	do	Oscar W. Loveless, 2605 Harmony Dr., Bakersfield, Calif. 93306.
CS76-1115	do	Elms Brothers & Co., 234 East Greene St., Waynesburg, Pa. 15370.
CS76-1116	do	Brown Saddle Corp., P.O. Box 22763, Houston, Tex. 77027.
CS76-1117	do	Arnold Winter, 1000 Fidelity Plaza, Oklahoma City, Okla. 73102.
CS76-1118	do	E. C. Hochendel d.b.a. Hochendel Consultants, Star Route Box 200, Golden Meadow, La. 70357.
CS76-1119	do	Lance W. Dreyer, P.O. Box 22763, Houston, Tex. 77027.
CS76-1120	Sept. 2, 1976	Speedman Oil Co., 1010 Wilson Bldg., Corpus Christi, Tex. 78401.
CS76-1121	do	Gary Loveless, 10714 Brae Bayou, Houston, Tex. 77071.
CS76-1122	Sept. 7, 1976	Carl E. Hansford, 706 River Oaks Bank and Trust Tower, Houston, Tex. 77019.
CS76-1123	do	J. R. Brown, P.O. Box 19236, Houston, Tex. 77024.
CS76-1124	Sept. 9, 1976	Retama Oil Corp., 1011 C and I Bldg., Houston, Tex. 77002.
CS76-1125	Aug. 31, 1976	Piedmont Exploration Co., Inc., P.O. Box 1968, Charlotte, N.C. 28233.
CS76-1126	Sept. 10, 1976	Greenbrier 74 Ltd., 3800 Republic Bank Tower, Dallas, Tex. 75201.
CS76-1127	do	RDA Petroleum, Inc., 501 Fort Worth Club Bldg., Fort Worth, Tex. 76102.
CS76-1128	do	Associated Minerals, Inc., 225 4th St., Parkersburg, W. Va.
CS76-1129	Sept. 13, 1976	Frank W. Summers II, 1812 Palmer Ave., New Orleans, La. 70118.
CS76-1130	do	Robert R. Jones, P.O. Box 86, Sand Fork, W. Va. 26430.
CS76-1131	do	Twin Montana, Inc., P.O. Box 720, Graham, Tex. 76046.
CS76-1132	do	Long, Atteberry & Associates, Inc., 101 Park Ave., Suite 540, Oklahoma City, Okla. 73102.
CS76-1133	do	James C. Burnett, P.O. Box 82, Midland, Tex. 79701.
CS76-1134	Sept. 7, 1976	Douglas V. and Linda K. Mitchell, Route 1, Box 146-A, Newata, Okla. 74048.

[FR Doc.76-28181 Filed 9-27-76;8:45 am]

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[Docket Nos. E-7738, E-7784, and E-8855]

BOSTON EDISON CO.

Notice of Conference

SEPTEMBER 21, 1976.

Take notice that the settlement conference previously scheduled for September 17, 1976, has been rescheduling to October 1, 1976, at the request of the Towns of Concord, Norwood and Wellesby, Massachusetts, intervenors herein. The conference will be held in Room 5200 at the offices of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 at 10:00 a.m.

All parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of the proposed rate increases or to make commitments with respects to such issues and any offers of settlement or stipulations discussed at the conference.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-28347 Filed 9-24-76;8:45 am]

[Docket No. ER76-854]

BOSTON EDISON CO.

Order Accepting Rate Schedule for Filing, Granting Waiver, Permitting Intervention, and Establishing Procedures

SEPTEMBER 22, 1976.

On August 12, 1976, Boston Edison Company (Edison) tendered for filing a rate schedule containing a proposed service agreement, rate, and terms and conditions for Contract Demand Service.[1] Edison states that the rate was developed at the request of one of its full requirements customers, the Town of Reading, Massachusetts, which is considering purchasing unit power from Edison's Pilgrim nuclear unit. The Contract Demand Service is in two categories, Peaking Power and Base-Intermediate Power. The rate is developed on the basis of the cost of service support filed by Edison in its general rate increase proceeding in Docket No. ER76-90.[2] For the reasons hereinafter stated, the Commission will accept the rate schedule for filing. Upon notice that a customer intends to take service thereunder, and the filing of an appropriate service agreement, the rate schedule will be permitted to become effective, subject to refund.

Edison states that it does not know when Contract Demand Service might commence. Accordingly, it requests waiver of Section 35.3 of the Commission's Regulations to permit this filing more than ninety days prior to the date service is to commence.

Under the proposed rate there is a separate demand charge for the two types of service provided. Similarly, there is a separate energy charge based on the source of power and the type of fuel consumed. The service is available to electric utilities or municipal electric departments and will be available to any all requirements customer in an amount not to exceed such customer's projected all requirements load.

Edison incorporated by reference its testimony and exhibits filed in support of its S-4 rates insofar as the rates herein are based on its 1976 test year cost of service in that proceeding. Edison stated its belief that the cost of service resolution in that proceeding should control in this proceeding.

Notice of Edison's filing was issued August 20, 1976, with comments, protests and petitions to intervene due on or before September 3, 1976. Timely petitions to intervene were filed by the Towns of Norwood, Concord, and Wellesley, Massachusetts (Towns) and by the Municipal Light Board of Reading, Massachusetts (Reading). Edison responded to these pleadings on September 7, 1976. Towns request that the rates be suspended for five months, that the proceedings be consolidated with the proceedings in ER76-90, and that it be permitted to intervene herein. We shall permit it to intervene, but deny the other relief requested. Reading requests that it be permitted to intervene, the rate be suspended for one day, that Edison be required to file a separate transmission rate or that this proceeding be consolidated with a separate Edison rate proceeding in Docket No. ER76-556,[3] and that the cost of service for this service be subject to determination in ER76-90. We believe that Reading should be permitted to intervene and that the rate level proposed herein should be the subject of the determination of the cost of service in the S-4 proceeding in Docket No. ER76-90. We agree that issues of terms and conditions should be the subject of a separate hearing herein.

Edison responds that, insofar as it did not request an effective date, suspension is not appropriate at this time. We believe Edison is correct and we shall not assign this filing an effective date at this time. The rate level to be determined herein should be based on the cost of service determination to be made in FR76-90. At such time as any customer intends to take service under the CD tariff, Edison should file timely notice and appropriate service agreements, and we would then permit the rate schedule to be effective, subject to refund.

Edison opposes consolidation with the ER76-90 proceeding and proposes that the rate level for this service track the outcome of the rate level determined to be just and reasonable in that proceeding. As indicated above, the Commission believes this procedure to be appropriate.

Edison opposes consolidation with Docket No. ER76-556 or the request that it file a separate transmission rate herein, stating that it will file such a rate if and when appropriate. We agree with Edison in this regard. At such time as that service is to be provided, a separate rate would be required which, according to Edison, could be challenged in a proceeding under Section 205 of the Act. We believe that the customers are thereby adequately protected.

The Commission finds: (1) Good cause exists to accept for filing Edison's proposed rate schedule as filed herein, pending hearing and decision as to the lawfulness of the terms and conditions of service as set forth therein. The rate level proposed therein shall be the subject of the outcome of the determination of Edison's cost of service in Docket No. ER76-90.

(2) Good cause exists to grant waiver of Section 35.3 of the Commission's Regulations.

(3) Good causes exists to permit the above named petitioners to intervene.

The Commission orders: (A) Pending hearing and decision as to the lawfulness of terms and conditions contained therein, Boston Edison's rate schedule filed in the instant proceeding is accepted for filing. The level of the rates and charges shall be subject to the outcome of Edison's rate increase proceeding in Docket No. ER76-90.

(B) At such time as any customer intends to take service under the proposed rate schedule, Edison shall file notice and appropriate Service Agreements in order to make the rate schedule effective.

(C) Waiver of Section 35.3 of the Commission's Regulations is hereby granted.

(D) The above-named petitioners are hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene; and *Provided further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)) shall convene a prehearing conference for the purpose of establishing such further procedural schedule as may be necessary. Said Presiding Administrative Law Judge shall preside at the hearing ordered herein and is hereby authorized to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL RERISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-28335 Filed 9-24-76;8:45 am]

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[1] Boston Edison Company, Contract Demand Service Tariff.

[2] The S-4 rates filed therein were suspended and set for hearing by order issued February 20, 1976.

[3] Boston Edison Company, order issued.

[Docket No. RI76-149]

BOWERS DRILLING CO., INC.

Notice of Petition for Special Relief

SEPTEMBER 21, 1976.

Take notice that on September 3, 1976, Bowers Drilling Comnany, Inc. (Bowers), Vickers-KSB&T Building, Wichita, Kansas 67202, filed a petition for special relief in Docket No. RI76-149, pursuant to Commission Order No. 481. Bowers seeks a price increase up to $1.00 per Mcf for the sale of gas to Cities Service Gas Company. The price increase is in consideration for the completion of remedial work on the Mee No. 1 well, Barber County, Kansas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 14, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-28350 Filed 9-24-76;8:45 am]

[Docket No. RI76-152]

BOWERS DRILLING CO., INC.

Notice of Petition for Special Relief

SEPTEMBER 21, 1976.

Take notice that on September 3, 1976, Bowers Drilling Company, Inc. (Bowers), Vickers-KSB&T Building, Wichita, Kansas 67202, filed a petition for special relief in Docket No. RI76-152, pursuant to Commission Order No. 481. Bowers seeks a price increase up to $1.00 per Mcf. for the sale of gas to Cities Service Gas Company. The price increase is in consideration for the completion of remedial work on the Kelley No. 1 well, Barber County, Kansas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 14, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-28343 Filed 9-24-76;8:45 am]

[Docket No. RI76-151]

BOWERS DRILLING CO., INC.

Notice of Petition for Special Relief

SEPTEMBER 21, 1976.

Take notice that on September 3, 1976, Bowers Drilling Company, Inc. (Bowers), Vickers-KSB&T Building, Wichita, Kansas 67202, filed a petition for special relief in Docket No. RI76-151, pursuant to Commission Order No. 481. Bowers seeks a price increase up to $1.00 per Mcf for the sale of gas to Cities Service Gas Company. The price increase is in consideration for the completion of remedial work on the Binning No. 1 well, Barber County, Kansas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 13, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-28344 Filed 9-24-76;8:45 am]

[Docket No. ER76-277]

CINCINNATI GAS AND ELECTRIC CO.

Notice of Motion To Withdraw Rate Filing

SEPTEMBER 21 1976.

Take notice that on August 17, 1976, Cincinnati Gas & Electric Company (CG&E) filed a motion requesting that the Commission grant it permission to withdraw its Rate Schedule FPC No. 36 tendered on November 21, 1975 and terminate the proceeding. Rate Schedule FPC No. 36 is applicable to sales for resale made to its almost wholly-owned subsidiary, Union Light, Heat and Power Company (Union), CG&E's major jurisdictional wholesale customer.

Second Revised Sheet No. 4 to Rate Schedule FPC No. 36, tendered for filing on November 21, 1975, proposed a change only in the fuel adjustment clause to conform said clause to the requirements of Section 35.14(a) of the Commission's Regulations as set forth in Commission Order No. 517. CG&E's filing of November 21, 1975, was not accepted for filing and made effective, inasmuch as the Commission's review indicated that the filing was deficient. Said filing remains deficient.

On May 25, 1976, CG&E tendered for filing in Docket No. ER76-709 a proposed new rate schedule for wholesale service rendered by CG&E to Union, including a proposed new fuel adjustment clause. By order issued June 23, 1976, the Commission accepted for filing and suspended CG&E's filing in Docket No. ER76-709, permitting it to become effective August 25, 1976.

CG&E's request for withdrawal of the November 21, 1975 proposed fuel clause will be treated as a request by CG&E for waiver of the requirement that as of January 1, 1976, all public utilities should have fuel adjustment clauses conforming to Order No. 517 on file with the Commission.

Any person desiring to be heard or to protest said motion should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before October 12, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this motion are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-28338 Filed 9-24-76;8:45 am]

[Docket No. CP76-489]

COLORADO INTERSTATE GAS CO.

Notice of Complaint

SEPTEMBER 22, 1976.

Take notice that on August 12, 1976, Colorado Interstate Gas Company (Complainant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP76-489 a complaint pursuant to Section 1.6 of the Commission's Rules of Practice and Procedure (18 CFR 1.6) asserting that W. R. Grace & Co. (Grace) is unlawfully diverting natural gas which is dedicated to Complainant and the interstate market under a Gas Purchase Agreement dated January 2, 1969, as amended, between Complainant and Grace, all as more fully set forth in the complaint on file with the Commission and open to public inspection.

It is stated that by the Gas Purchase Agreement dated January 2, 1969, under which sales were authorized by Commission Order in Docket No. CI69-849, Grace committed to the Complainant all of Grace's interests in gas which could be commercially produced, with specified reservations, from certain acreage in Natrona and Fremont Counties, Wyoming. The complaint further states that the acreage listed in the contract was committed to the base of the Lower Fort Union Formation only and that the Complainant was given a preferential right to gas available from commercial wells drilled after the date of the Agreement on the subject acreage which was produced from below the base of the Lower

Fort Union Formation unless Grace disposed of such acreage prior to the drilling of a gas well. The sale by Grace to Complainant is now covered by the Small Producer Certificate of Inexco Oil Company issued at Docket No. CS71-254, it is said.

Complainant indicates that at the time of the negotiation and execution of the contract there was a difference of opinion as to the proper designation of the formation from which the wells on the dedicated acreage were producing, and that the parties agreed to the description, "Fort Union," and incorporated that description into the provisions of the contract. But Complainant asserts that since that time, it has been generally decided that the original formation should be more properly described as two sections, the "Fort Union" and the "Lance," and that the intent of the parties was to dedicate the specified acreage from its surface to the base of the then deepest encountered producing formation, no matter how such formation may be described. Complainant shows that until recently Grace has never attempted to shut off production and deliveries to Complainant from the original wells even though part of the production originates in the Lance formation.

Complainant maintains that recently Grace has participated in the completion of separate producing gas wells on the committed acreage to the Lance formation and, to the best Complainant's knowledge, has executed contracts for the sale of its interest from those wells to Northern Gas Company, an interstate purchaser. Complainant contends that this is an unlawful diversion of natural gas and requests that the Commission prevent further violation of Section 7(b) of the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said complaint should on or before October 23, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-28337 Filed 9-24-76;8:45 am]

[Docket No. AR67-1]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Filing of Petition Regarding Treatment of Refunds

SEPTEMBER 22, 1976.

Take notice that on August 3, 1976, Columbia Gas Transmission Corporation (Columbia) filed a telegram in the nature of a petition for relief. In support thereof Columbia states that on August 19, 1976, the Commission issued an order, amended by order of March 25, 1976, directing a disbursement and flow-through of refunds in the captioned docket. Each purchaser is required to submit a plan for the flow-through of refunds and to indicate the method of disbursement of refunds released by other Southwest Area producers in the various docket numbers involved in the captioned proceeding.

Columbia further states that it has received $4,552.53 as a refund, including interest, under American Petrofina Company of Texas' FPC Gas Rate Schedule No. 9. Columbia requests that the Commission permit Account 191, purchased gas adjustment treatment for the refunds received from American Petrofina Company of Texas.

Any person desiring to be heard or to protest said filing should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 7, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-28334 Filed 9-24-76;8:45 am]

[Project No. 2232]

DUKE POWER CO.

Notice of Application for Approval of Easement Over Project Lands

SEPTEMBER 21, 1976.

Public notice is hereby given that an application was filed on July 26, 1976, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by Duke Power Company (Correspondence to: Mr. William L. Porter, Associate General Counsel, Duke Power Company, Box 2178, Charlotte, North Carolina 28242) for Commission approval of the grant of an easement over certain lands of the Mountain Island Development of the Catawba-Wateree Project, FPC No. 2232, to the City of Charlotte, North Carolina, for construction, operation, and maintenance thereon of an effluent line, outfall, and other facilities appurtenant to a wastewater treatment plant to be located outside the project boundary. The project lands that would be affected by the easement are located in northwestern Mecklenburg County, North Carolina, on the McDowell Creek arm of Mountain Island Lake.

Applicant proposes to grant an easement and right-of-way to the City of Charlotte for the construction of certain facilities for the treatment and disposal of municipal wastewater. The facilities would include a polishing lagoon, a chlorine contact stabilization unit, and an effluent line that would discharge the treated wastewater into the reservoir of the Mountain Lake Development. The easement area within the project boundary would comprise approximately 35 acres, of which the polishing lagoon and chlorine contact stabilization unit would occupy about 30 acres and the sewer interceptor line, on a 30-foot right-of-way, would occupy about five acres. The interceptor sewer line would be either below grade or submerged in the reservoir, with only the manholes exposed at 300 to 500-foot intervals.

The McDowell Creek wastewater treatment facilities would eliminate three small wastewater treatment plants within northern Mecklenburg County currently serving the towns of Cornelius, Davidson, and Huntersville. Each of these plants is inadequately treating wastewater and discharging into local streams, two of which are tributaries to Mountain Island Lake. The McDowell Creek facilities would also eliminate two package treatment plants located in northern Mecklenburg County.

The City of Charlotte has obtained National Pollutant Discharge Elimination System (NPDES) Permit No. 3978, as well as Construction Permit No. 8234 from the North Carolina Department of Natural and Economic Resources, for the construction and operation of the proposed sewage treatment plant and appurtenant facilities. NPDES Permit No. 3978 allows for a discharge of three million gallons per day.

The U.S. Environmental Protection Agency has awarded a grant to the City of Charlotte for construction of the wastewater treatment facilities pursuant to Section 201 of the Federal Water Pollution Control Act Amendments of 1972.

Applicant has requested the shortened procedure provided for under Section 1.32(b) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.32(b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should, on or before November 5, 1976, file with the Federal Power Commission, 825 N. Capitol St. NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. § 825g and § 825h, and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b), a hearing on this application may be held before the Commission without further notice if no is-

sue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or to be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-28339 Filed 9-24-76;8:45 am]

[Project No. 2232]

DUKE POWER CO.

Notice of Application for Approval of Easement Over Project Lands

SEPTEMBER 21, 1976.

Public notice is hereby given that an an application was filed on August 2, 1976, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by Duke Power Company (Correspondence to: Mr. William L. Porter, Associate General Counsel, Duke Power Company, Box 2178, Charlotte, North Carolina 28242) for Commission approval of the grant of an easement over certain lands of the Rhodhiss Lake Development of the Catawba-Wateree Project, FPC No. 2232, to the Town of Valdese, North Carolina, for construction, operation, and maintenance thereon of an effluent line and outfall. The project lands that would be affected by the easement are located in eastern Burke County, North Carolina, on the Hoyle Creek arm of Rhodhiss Lake.

Applicant proposes to grant an easement and right-of-way to the Town of Valdese for construction of an effluent line that would transport municipal wastewater from a sewage treatment plant located outside the project boundary into the reservoir of the Rhodhiss Lake Development. The project lands affected would include a temporary 50-foot-wide right-of-way for construction purposes and a permanent 25-foot-wide right-of-way. The rights-of-way would be about 766 feet long. Approximately 750 feet of pipe 28 inches in diameter, as well as the sewer outfall, woud be submerged in Lake Rhodhiss.

The Hoyle Creek wastewater treatment facility, to be served by the subject effluent line, would expand and upgrade the existing facility which currently discharges 0.5 million gallons per day into Hoyle Creek. The expanded plant would accommodate projected municipal and industrial growth, and would discharge 1.0 million gallons per day into the main channel of the Catawba River within Rhodhiss Lake.

The Town of Valdese has obtained National Pollutant Discharge Elimination System Permit No. 8249, as well as a construction permit from the North Carolina Department of Natural and Economic Resources, for the continuation of the existing plant and for the construction and operation of the proposed expanded plant

The U.S. Environmental Protection Agency has awarded a grant to the Town of Valdese for construction of the expanded wastewater treatment facility pursuant to Section 201 of the Federal Water Pollution Control Act Amendments of 1972.

Applicant has requested the shortened procedure provided for under Section 1.32 (b) of the Commission's Rules of Practice and Procedure, 18 CFR 1.32(b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should, on or before November 5, 1976, file with the Federal Power Commission, 825 N. Capitol St. N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. §§ 825g and 825h, and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b), a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-28340 Filed 9-24-76;8:45 am]

[Docket No. RP76-144]

FT. PIERCE UTILITY AUTHORITY ET AL., COMPLAINANTS V. FLORIDA GAS TRANSMISSION CO., RESPONDENT

Notice of Complaint and Request for Expedited Proceedings and Declaratory Relief

SEPTEMBER 22, 1976.

Take notice that on August 26, 1976, the Fort Pierce Utility Authority, the Cities of Gainesville, Homestead, Kissimmee, Lakeland, and Starke and the Sebring Utilities Commission ("Cities") filed, pursuant to judicial order, Sections 13 and 16 of the Natural Gas Act, 15 U.S.C. 717 et seq., and Section 1.6 and 1.7 (c) of the Commission's Rules of Practice and Procedure, 18 CFR 1, et seq., a complaint against Florida Gas Transmission Company ("FGT"). Cities seek expedited proceedings and ask that relief in the form of declaratory orders be issued.

Cities are municipal electric systems and are direct interruptible customers of FGT.[1] On August 31, 1972, the United States District Court for the Southern District of Florida entered an Order Approving Stipulation and Consent Decree in *City of Ft. Pierce et al.* v. *FGT*, U.S. District Court for the Southern District of Florida, Docket No. 71-1494 CIV CA. On July 29, 1975, FGT filed a motion with the Florida District Court for modification of the decree. In response, Cities moved to dismiss FGT's motion and to enforce the decree. By order of October 8, 1975, Cities Motion to dismiss was granted, the Court holding that it "is without jurisdiction as to any purpose other than enforcing the stipulation." Cities Motion for judicial enforcement, seeking specific performance and damages, is now pending before the Florida Court.

By motion of June 30, 1976, FGT asked the Florida Court to refer certain issues in the proceeding to the Federal Power Commission. By Order issued July 31, 1976, the Florida Court ordered a referral of the following questions to the Federal Power Commission.

1. This matter is referred to the FPC for a full and adequate determination of the questions raised herein, including, but not limited to:

A. Whether the deliveries made to the Orlando Utilities Commission and Vero Beach under a "time on pipe" method of allocation was made in good faith and was fair and reasonable in light of all the circumstances existing at the time the method was chosen;

B. Whether the disproportionate deliveries have been obviated, or will be obviated by future deliveries;

C. Whether, or within what parameters, FGT is able to specifically perform its obligations under the stipulation in light of existing circumstances;

D. Whether the secret letter agreement between FGT and Amoco, not filed with the Commission, is of any effect;

E. Whether it was necessary for FGT to join in Florida Hydrocarbon's request for extraordinary relief under existing rules and regulations.

The District Court ordered Cities to initiate the FPC's inquiry by filing an appropriate complaint with the Commission. The District Court requested the Commission to conclude its proceedings and submit its decision to the District Court not later than seven months after the complaint is filed.

Respondent shall file a response to the complaint within 21 days of the service of the complaint. Any person desiring to be heard or to respond with reference to said notice should on or before October 13, 1976 file with the Federal Power Commission, Washington, D.C. 20426, a

[1] Starke and Ft. Pierce also receives natural gas from FGT for resale.

petition to intervene or a response in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.6 of 1.8). All responses filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-28336 Filed 9-24-76;8:45 am]

[Project No. 1218]

GEORGIA POWER CO.

Issuance of Annual License(s)

SEPTEMBER 21, 1976.

On February 26, 1970, Georgia Power Company, Licensee for Flint River Project No. 1218 located on Flint River in Dougherty and Lee Counties, Georgia, near the city of Albany, filed an application for a new license under the Federal Power Act and Commission regulations thereunder.

The license for Project No. 1218 was issued effective January 1, 1933, for a period ending September 16, 1971. Since the original date of expiration, the project has been maintained and operated under annual licenses, the most recent of which will expire on September 16, 1976. In order to authorize the continued operation and maintenance of the project pursuant to the Federal Power Act, pending Commission action on the Licensee's application, it is appropriate and in the public interest to issue an annual license to the Georgia Power Company.

Take notice that an annual license is issued to the Georgia Power Company under the Federal Power Act for the period September 17, 1976, to September 16, 1977, or until the issuance of a new license for the project, or until Federal takeover, whichever comes first, for the continued operation and maintenance of the Flint River Project No. 1218, subject to the terms and conditions of its present license. Take further notice that if issuance of a new license does not take place on or before September 16, 1977, a new annual license will be issued each year thereafter, effective September 17 of each year, until such time as Federal takeover takes place or a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-28349 Filed 9-24-76;8:45 am]

[Docket No. RP76-112]

CITY OF INDIANAPOLIS V. PANHANDLE EASTERN PIPE LINE CO.

Notice of Complaint

SEPTEMBER 21, 1976.

Take notice that on June 22, 1976, the Board of Directors for Utilities of the Department of Public Utilities of the City of Indianapolis as Successor Trustee of a Public Charitable Trust (Complainant) filed in Docket No. RP76-112 a complaint against Panhandle Eastern Pipe Line Company (Respondent), alleging that Section 16.6 of Respondent's FPC Gas Tariff relating to "Billing Procedures" is unjust and unreasonable in violation of Section 4 of the Natural Gas Act. Complainant requests that the alleged unjust effect of the tariff section be rectified by replacement or modification of the section.

The complaint asserts that as the result of Respondent's rate increase filing in Docket No. RP73-108, a settlement was entered by Respondent, Respondent's customers, and the Commission Staff. As approved by a Commission order of August 30, 1974, that settlement embodied, among other things, a provision in Section 16.6 which is referred to as the Demand Charge Adjustment Clause (DCA) and which remains in effect to date. The complaint alleges that the DCA was essentially intended to convert "demand penalty charges" (as characterized by Complainant), which could not be passed on by the Indiana customers to their retail customers, into commodity surcharges, which could be passed on. The stated intent was that credits based on the "demand penalty" were to be matched by the commodity surcharge. However, the complaint asserts that, because of increased curtailment on Panhandle's system, the effect of the DCA has varied from its intent in that certain customers who are curtailed the least have surcharges in excess of credits, while other customers who have experienced higher curtailment have had credits in excess of surcharges. Complainant alleges that by operation of the DCA through December, 1976, it will have been billed $1,635,666 more in commodity surcharges than it will have received in demand credits, while during that same period certain other customers will have received a windfall and Respondent will have received substantial over-recoveries. Complainant states that this asserted effect is beyond that intended by the sponsoring parties in Docket RP73-108 and that the DCA, as it now operates, constitutes an illegal "compensation plan." As a result, the complaint requests that the asserted unjust effect of the DCA be rectified by modification so as to apply the DCA credit on a per customer basis rather than on a rate schedule basis.

On July 30, 1976, Respondent filed an answer opposing the complaint and indicating the necessity for evidentiary hearings prior to modification of the tariff as requested by complainant. On August 19, 1976, Complainant filed a reply to Respondents answer. Complainant stated, inter alia, that it was engaged in preparing language for a replacement Section 16.6 and an analysis of the effect of the DCA, as it now exists, on all of Respondents jurisdictional customers.

On July 23, 1976, Illinois Power Company filed a petition for leave to intervene in the Docket No. RP76-112 proceedings. Any other person desiring to be heard or to make any protest with reference to said complaint should on or before October 15, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-28345 Filed 9-24-76;8:45 am]

[Docket No. AR67-1]

MID LOUISIANA GAS CO.

Notice of Filing of Petition Regarding Treatment of Refunds

SEPTEMBER 21, 1976.

Take notice that on August 13, 1976, Mid Louisiana Gas Company (Mid Louisiana) filed a letter in the nature of a petition for relief. In support thereof Mid Louisiana states that on July 27, 1976, it filed a plan for the flowthrough of the jurisdictional portion of the single refund it received in the proceeding in the captioned dockets and that subsequent to such filing it received a copy of United Gas Pipe Line Company's plan for refunding supplier refunds in Docket Nos. AR64-2 and AR67-1.

Mid Louisiana further states that the jurisdictional portion of United's proposed refund to Mid Louisiana is only $3,906. Mid Louisiana requests that, in light of the size of this proposed refund, rather than revising its previously filed refund plan it be allowed to place the $3,906 in its deferred gas cost account and use it in the calculation of the next purchased gas cost adjustment filed by Mid Louisiana.

Any person desiring to be heard or to protest said filing should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 30, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-28346 Filed 9-24-76;8:45 am]

[Docket No. CP76-505]

NORTHERN NATURAL GAS CO.

Notice of Application

SEPTEMBER 21, 1976.

Take notice that on August 30, 1976, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP76-

505 an application pursuant to Section 7(c) of the Natural Gas Act and Sections 157.7(c) and 157.7(e) of the Regulations thereunder (18 CFR 157.7(c) and 157.7 (e)) for a certificate of public convenience and necessity authorizing the rearrangements of unspecified miscellaneous branchline and town border stations during calendar year 1977 and for permission and approval to abandon various direct sales facilities and services during the calendar year 1977, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes in this budget-type application to make unspecified branchline and town border station rearrangements to accommodate, among other things, highway construction work, commercial development, and relocation of minor water ways without changing the service rendered by any of the facilities involved. Applicant states that the total cost of such rearrangements would not exceed $300,000 for the calendar year and would be financed from cash on hand.

Applicant also proposes by the instant application to abandon the service of and remove certain direct sales measuring, regulating, and related minor facilities during the calendar year 1977.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-28348 Filed 9-24-76;8:45 am]

[Docket No. ER76-221]

POTOMAC EDISON CO.

Notice of Certification of Settlement Agreement

SEPTEMBER 21, 1976.

Take notice that on September 13, 1976, the Presiding Administrative Law Judge certified to the Commission for its disposition a proposed settlement of all issues in this proceeding as between Potomac Edison Company and the following customer-intervenors: Town of Front Royal, Virginia and Old Dominion Electric Cooperative on behalf of BARC Electric Cooperative and Shenandoah Valley Electric Cooperative. The proposed setlement does not affect the dispute between Potomac Edison Company and the following other customer-intervenors: Cities of Mont Alto and Chambersburg, Pennsylvania, and Thurmont, Hagerstown, and Williamsport, Maryland.

Any person desiring to be heard as to said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 8, 1976. Copies of this settlement agreement are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-28342 Filed 9-24-76;8:45 am]

[Docket No. CP76-507]

TRUNKLINE GAS CO.

Notice of Application

SEPTEMBER 21, 1976.

Take notice that on August 31, 1976, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP76-507 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permisison and approval for the abandonment, for a 12-month period from the date of authorization, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which will not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of constructing the new facilities and the total out-of-pocket cost of abandoning, removing, and reallocating the existing facilities would not exceed $3,000,000 and that no single project to be installed would cost in excess of $500,000. Applicant proposes to finance the projects from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 18, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-28341 Filed 9-24-76;8:45 am]

SUPPLY-TECHNICAL ADVISORY TASK FORCE-SYNTHESIZED GASEOUS HYDROCARBON FUELS

Meeting

Federal Power Commission, Union Center Plaza Building, Conference Room 5200, 825 North Capitol Street, NE., Washington, D.C. 20426, October 12, 1976, 9:30 A.M.

Presiding: Mr. William J. McCabe, FPC Coordinating Representative and Secretary, National Gas Survey.

1. Call to order and introductory remarks—Mr. William J. McCabe.
2. Remarks by Chairman and Vice Chairman—Dr. Alan G. Fletcher, Mr. Charles W. Margolf.
3. Subgroup working session—
Subgroup II: Siting and Environment—Mr. Charles W. Margolf.
(a) Review of circulated draft reports.
(b) Prepare draft reports for inclusion into final report.
4. Other business.
5. Adjournment—Mr. William J. McCabe.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the Committee.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-28542 Filed 9-27-76;9:16 am]

INTERNATIONAL TRADE COMMISSION

[303-TA-1]

CERTAIN ZORIS FROM THE REPUBLIC OF CHINA (TAIWAN)

Determination of No Injury or Likelihood Thereof or Prevention of Establishment

SEPTEMBER 22, 1976.

On June 22, 1976, the United States International Trade Commission received advice from the Department of the Treasury (Treasury) that a bounty or grant is being paid with respect to footwear known as zoris imported from the Republic of China (Taiwan), entered under item 700.54 of the Tariff Schedules of the United States (TSUS) and accorded duty-free treatment under section 501 of the Trade Act of 1974. Accordingly, the Commission, on July 6, 1976, instituted investigation No. 303-TA-1, under section 303(b) of the Tariff Act of 1930, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Public notice of the investigation and of the public hearing were duly given by posting copies of the notice at the Secretary's office in the Commission's building in Washington, D.C., and in the Commission's office in New York City, and by publishing the original notice in the FEDERAL REGISTER of July 12, 1976 (41 FR 28594). In addition, copies of the notice were mailed to all known U.S. producers of footwear.

The public hearing opened as scheduled on August 17, 1976, but no witnesses appeared.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the United States International Trade Commission has unanimously determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of zoris from the Republic of China (Taiwan), entered under item 700.54 of the Tariff Schedules of the United States and accorded duty-free treatment under section 501 of the Trade Act of 1974, upon which the Treasury has determined that a bounty or grant is being paid within the meaning of section 303 of the Tariff Act of 1930, as amended.

Issued: September 23, 1976.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.76-28258 Filed 9-27-76;8:45 am]

LEGAL SERVICES CORPORATION

GREATER BOSTON LEGAL SERVICES, BOSTON, MASS. AND NEIGHBORHOOD LEGAL SERVICES, BUFFALO, NEW YORK

Grant and Contract Applications

SEPTEMBER 23, 1976.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *"

The Legal Services Corporation hereby announces publicly that it is considering the applications for grants submitted by Greater Boston Legal Services, Boston, Massachusetts and the Neighborhood Legal Services Inc., Buffalo, New York.

Additional information may be obtained by writing the Legal Services Corporation, 733 Fifteenth Street, N.W. Suite 700, Washington, D.C. 20005.

THOMAS EHRLICH,
President.

[FR Doc.76-28257 Filed 9-27-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 76-82]

JAPAN ENGINEERING DEVELOPMENT CO.

Intent to Grant Foreign Exclusive Patent License

In accordance with the NASA Foreign Licensing Regulations, 14 CFR 1245.405 (e), the National Aeronautics and Space Administration announces its intention to grant to the Japan Engineering Developing Company, Tokyo, Japan, an exclusive patent license in Japan for the four NASA owned inventions covered by the Japanese counterparts of: (1) U.S. Application for Patent Serial No. 658,133 for "Acoustic Energy Shaping", filed by NASA on February 13, 1976; (2) U.S. Application for Patent Serial No. 680,958 for "Magnifying Image Intensifier", filed by NASA on April 28, 1976; (3) U.S. Application for Patent Serial No. 687,822 for "Multi-Cell Battery Protection System", filed by NASA on May 19, 1976; and (4) U.S. Application for Patent Serial No. 686,331 for "Hybrid Holographic Non-Destructive Test System", filed by NASA on May 14, 1976. Copies of the above U.S. Patent Applications can be purchased from the National Technical Information Service, Springfield, Virginia, 22161, at a cost of $3.75 a copy. Interested parties should submit written inquires or comments on or before October 28, 1976, to the Assistant General Counsel for Patent Matters, Code GP, National Aeronautics and Space Administration, Washington, D.C. 20546.

S. NEIL HOSENBALL,
General Counsel.

[FR Doc.76-28144 Filed 9-27-76;8:45 am]

[Notice 76-81]

LICENSING MANAGEMENT CORP.

Intent to Grant Foreign Exclusive Patent License

In accordance with the NASA Foreign Licensing Regulations, 14 CFR 1245.405(e), the National Aeronautics and Space Administration announces its intention to grant to the Licensing Management Corporation, New York, New York, an exclusive patent license in Australia, Canada, France, Great Britain, India, Japan, Korea and Switzerland for the NASA owned invention covered by the foreign counterparts of U.S. Patent No. 3,692,533 for "Modification of the Physical Properties of Freeze Dried Rice", issued to NASA on September 19, 1972. Copies of the above identified U.S. Patent can be purchased from the U.S. Patent Office, Department of Commerce, Washington, D.C., 20231 for $.50 a copy. Interested parties should submit written inquiries or comments on or before October 28, 1976, to the Assistant General Counsel for Patent Matters, Code GP, National Aeronautics and Space Administration, Washington, D.C. 20546.

S. NEIL HOSENBALL,
General Counsel.

[FR Doc.76-28143 Filed 9-27-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR REGULATORY BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Regulatory Biology.
Date and Time: October 18, 19, 20, 1976—9:00 a.m. to 6:00 p.m. each day.
Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C.
Type of Meeting: Closed.
Contact Person: Dr. Nancy B. Clark, Program Director, Regulatory Biology Program, Room 333, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4298.
Purpose of Panel: To provide advice and recommendations concerning support for research in Regulatory Biology.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for Closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.76-28307 Filed 9-27-76;8:45 am]

CONTINUING EDUCATION FOR ELEMENTARY AND SECONDARY SCHOOL SCIENCE TEACHERS

Regional Meetings

The National Science Foundation will hold a series of regional meetings to discuss and obtain comments from the academic community on guidelines for the Pre-College Teacher Training Program being established this year.

Though these informal sessions with representatives from colleges and universities are not meetings of an "advisory committee" as that term is defined in Section 3 of the Federal Advisory Committee Act (P.L. 92-463), the meetings are of sufficient importance and interest to the general public to announce them in the FEDERAL REGISTER as meetings open for public attendance and participation.

The first of the meetings will be held in Atlanta on October 19 at the Omni International Hotel, No. 1 Omni Plaza, Atlanta, Georgia 30303. The dates and locations of the remaining meetings are:

OCTOBER 20

Sheraton Dallas Hotel, 2117 Live Oak, Dallas, Texas 75201.

OCTOBER 22

Sheraton West Hotel, 2961 Wilshire Boulevard, Los Angeles, California 90010.

OCTOBER 25

Radisson Denver Hotel, 1790 Grant Street, Denver, Colorado 80203.

OCTOBER 26

Watertower Hyatt Hotel, 800 Michigan Avenue, Chicago, Illinois 60611.

OCTOBER 28

Sheraton Park Hotel, 2660 Woodley Road, NW., Washington, D.C. 20008.

Each meeting will begin at 9:00 a.m. and terminate at noon. Members of the public who wish to attend may call Dr. Terence L. Porter at (202) 282-7795 for further information.

A summary of the program guidelines follows this notice.

M. REBECCA WINKLER,
Acting Committee Management Officer.

SEPTEMBER 23, 1976.

NATIONAL SCIENCE FOUNDATION

PRE-COLLEGE TEACHER TRAINING PROGRAM SUMMARY

The National Science Foundation is inaugurating a new Teacher Training Program for the continuing education of elementary and secondary school science teachers. The specific objectives of this program are:

To improve teahers' knowledge of the subject matter of science;

To develop and maintain communication and cooperation between scientists at colleges and universities and teachers in elementary and secondary schools.

In this context, "science" includes the mathematical, physical, biological, engineering and social sciences.

Proposals are solicited from colleges and universities nation-wide.

Projects to be supported will in general engage a group of elementary or secondary school teachers in a learning experience sponsored by the grantee institution and staffed by individual faculty or others selected for their appropriate expertise. Two broad types of projects are envisioned: Academic Year Projects for commuting participants with sessions held regularly during the school year, and Summer Projects for full-time resident participants for periods of one to four weeks. Within these categories wide variability is encouraged, but projects will be subject-matter oriented. In designing a project, proposers should pay particular attention to justify the needs which the project is intended to address.

The closing date for receipt of proposals is March 1, 1977 and awards will be announced on approximately July 1, 1977. Projects must be completed by September 30, 1978. The maximum award will be $50,000.

[FR Doc.76-28309 Filed 9-27-76;8:45 am]

UTILITY ADVISORY PANEL

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Utility Advisory Panel.
Date, Time and Locations: October 18, 1976, 1:00 p.m.-5:00 p.m., Quality Inn, Congressional Room, 415 New Jersey Avenue, NW., Washington, D.C.
October 19 and 20, 1976, 8:30 a.m.-4:45 p.m., Commerce Building, Main Auditorium, 14th Street Between E Street and Constitution Ave., N.W., (Enter through Main Entrance on 14th Street), Washington, D.C.
Type of Meeting: Open.
Contact Person: Dr. Richard I. Schoen, Room 1149, Division of Advanced Energy and Resources Research and Technology, National Science Foundation, Washington, D.C. 20550, Telephone 202/632-7364.
Summary Minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Rm. 212, National Science Foundation, Washington, D.C.
Purpose of Panel: To review the assumptions made by, and the results of, the Energy Conversion Alternatives Study which is supported by the National Science Foundation, the National Aeronautics and Space Administration, and the Energy Research and Development Administration. As the aim of the study is to evaluate candidate coal energy conversion systems for application to electric power generation, it is necessary to ensure that the results are applicable to electric utilities.

AGENDA

October 18, 1976

1:00 p.m.-5:00 p.m.—Utility Advisory Panel Meeting—review of preliminary findings.

October, 19, 1976

ECAS Task III Contractors' Briefings—development plans and implementation assessment.

8:30 a.m.-8:45 a.m.—Introduction.
8:45 a.m.-12:00 noon—General Electric presentation.
12:00 noon-1:30 p.m.—Recess.
1:30 p.m.-3:30 p.m.—General Electric presentation concluded.
3:30 p.m.-4:45 p.m.—United Technologies/Burns and Roe presentation.

October 29, 1976

ECAS Task III contractors' briefings concluded—development plans and implementation assessment.

8:30 a.m.-12:00 noon—Westinghouse presentation, ECAS Task II evaluation of conceptual designs.
10:45 a.m.-12:00 noon—NASA-Lewis presentation.
12:00 noon-1:30 p.m.—Recess.
1:30 p.m.-2:30 p.m.—NASA-Lewis presentation concluded.
2:30 p.m.-3:30 p.m.—ECAS discussion by utility advisory panel.
3:30 p.m.-4:45 p.m.—General discussion.

M. REBECCA WINKLER,
Acting Committee Management Officer.

SEPTEMBER 23, 1976.

[FR Doc.76-28308 Filed 9-27-76;8:45 am]

NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

PROVIDERS, REGULATORS AND USERS COMMITTEES

Meetings

The National Commission on Electronic Fund Transfers will hold consecutive meetings of its Providers Committee, Regulators Committee and Users Committee on Thursday, October 7, 1976 at Stouffer's Atlanta Hotel, 590 West Peachtree Street, NW., Atlanta, Georgia beginning at 9:30 a.m. The full Commission will meet at the same location on Friday, October 8, 1976 at 9:30 a.m. Each of the meetings will discuss hearing

plans and schedules for the remainder of this year.

The meetings are open to the public on a first-call basis to the extext that space permits. Any person interested in attending should first call Ms. Janet Miller at (202) 254–7400 to check on the availability of space.

JAMES O. HOWARD, Jr.,
General Counsel.

SEPTEMBER 24, 1976.

[FR Doc.76–28539 Filed 9–24–76;4:55 pm]

VETERANS ADMINISTRATION

HEALTH MANPOWER TRAINING ASSISTANCE REVIEW COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Public Law 92–463 of a meeting of the Health Manpower Training Assistance Review Committee, authorized by the Administrator of Veterans Affairs on August 26, 1974 in the FEDERAL REGISTER (39 FR 30873). This meeting will be in the Veterans Administration Central Office building, Room 817 and the committee will meet as follows: One-half of the members will meet on October 29, 1976 at 8:30 a.m. and one-half of the members will meet on November 1, 1976 at 8:30 a.m. The meeting will be for the purpose of review of applications for grant assistance to institutions engaged in health manpower training, which assistance is authorized by Public Law 92–541. The committee provides recommendations to the Chief Medical Director concerning approval, deferral, return for revision and disapproval of the applications being considered.

The meeting will be open to the public each day up to the seating capacity of the room from 8:30 a.m. until 10 a.m. to discuss general policies and current status of the program. Because of the limited seating capacity of the room those who plan to attend should contact Dr. Chester W. DeLong, Executive Secretary of the Committee, Department of Medicine and Surgery, Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC 20420, prior to October 22, 1976. (Telephone: (202) 389–3072).

The meeting will be closed from 10 a.m. until 5 p.m. each day for consideration of individual applications. The closed portion of the meeting involves: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of individual grant applications and similar documents which are exempt from disclosure under the intra-agency memorandum exemption (exemption (5)) to section 552(b) of title 5, United States Code. The portion of the meeting which necessitates examination of these documents will be closed to prevent inadvertent disclosure of these exempt records.

Minutes of the meeting and rosters of the committee members may be obtained from Dr. DeLong at the address given above.

Dated: September 22, 1976.

R. L. ROUDEBUSH,
Administrator.

[FR Doc.76–28305 Filed 9–27–76;8:45 am]

MEDICAL SCHOOL ASSISTANCE REVIEW COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Public Law 92–463 of a meeting of the Medical School Assistance Review Committee, authorized by the Administrator of Veterans Affairs on August 26, 1974 in the FEDERAL REGISTER (39 FR 30873). This meeting will be in the Veterans Administration Central Office building, Room 817 on November 8, 1976 starting at 8:30 a.m. The meeting will be for the purpose of review of applications from medical schools for assistance in developing their programs, which assistance is authorized by Public Law 92–541. The committee advises the Chief Medical Director on the approval, deferral, return for revision, or disapproval of these applications.

The meeting will be open to the public up to the seating capacity of the room from 8:30 a.m. to 10:00 a.m. to discuss the general policies and current status of the program. Because of the limited seating capacity of the room those who plan to attend should contact Dr. Chester W. DeLong, Executive Secretary of the Committee, Department of Medicine and Surgery, Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, D.C. 20420, prior to November 8, 1976. (Telephone: (202) 389–3072).

The meeting will be closed from 10 a.m. until 5 p.m. on November 8, 1976 for consideration of individual applications. The closed portion of the meeting involves: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of individual grant applications, and similar documents which are exempt from disclosure under the intra-agency memoranda exemption (exemption (5)) to section 552(b) of title 5, United States Code. The portion of the meeting which necessitates examination of these documents will be closed to prevent inadvertent disclosure of these exempt records.

Minutes of the meeting and rosters of the committee members may be obtained from Dr. DeLong at the address given above.

Dated: September 22, 1976.

R. L. ROUDEBUSH,
Administrator.

[FR Doc.76–28304 Filed 9–27–76;8:45 am]

COUNCIL ON WAGE AND PRICE STABILITY

RISING HEALTH CARE COSTS

Public Hearing

This notice is to announce an additional round of hearings on rising health care costs by the Council on Wage and Price Stability in Philadelphia (October 14), Houston (October 21), and Miami (October 28). The Council has previously held hearings on this topic in New York, Chicago, and San Francisco. These hearings were intended to collect data about the extent and causes of inflation in the health care sector, and also to receive comments on a report, entitled "The Problem of Rising Health Care Costs," published by the Council in April of 1976. The response to the earlier hearings has shown strong continuing interest in this matter and an expressed interest of others to present views to the Council about the causes of health sector inflation. In addition, the Council published for comment on September 17 in the FEDERAL REGISTER (41 FR 40298) a compendium of labor and management innovations in controlling health care costs and is seeking comments on, and additions to, this document.

The Council is particularly concerned with the problem of rising medical care costs and their potential impact upon the individual household, labor, industry and government. Many experts predict that the high rate of inflation that has occurred in this sector will continue in future years. Thus, the Council is especially interested to collect further views in these hearings about actions which are being taken in the private sector to stem health cost increases.

Specific locations in each of the three cities cited above, as well as the times of day, will be announced in the FEDERAL REGISTER very shortly.

Interested members of the public, including consumers, medical care providers, insurers, government officials, and labor and management representatives are invited to present their oral or written views at these public hearings.

Comments are particularly solicited in connection with the following topics:

(1) What factors are responsible for the rapid rise in health care costs?

(2) What can and is being done by the medical care industry, by third-party payers, by the consumer, or by labor and management in other sectors of the economy to stem the increase in costs?

Requests to appear and present oral and written testimony should be telephoned to the Council at least ten days before the hearing desired. Interested parties should at that time give a brief outline of the testimony. Requests should be directed to Mr. James Elleman, Council on Wage and Price Stability, 726 Jackson Place, NW., Washington, D.C. 20506, (202–456–2695).

The scheduling of oral testimony may have to be limited, depending on the number of persons requesting to be heard. However, we urge those unable to testify to submit written comments which will then be made a part of the formal record of the hearing. A CWPS official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. In order to make the most efficient use of the time available, questions may be asked only by those conducting the hearings, and there

will be no cross-examination of persons presenting statements. Other procedural rules will be announced at the beginning of each hearing.

Any written comments and information from parties not wishing or unable to appear at the hearings should be submitted to the above address no later than October 28, 1976. All comments and information submitted will be available to the public under the provisions of the Freedom of Information Act (5 U.S.C. 552).

WILLIAM LILLEY III,
Acting Director.

[FR Doc.76-28333 Filed 9-27-76;8:45 am]

DEPARTMENT OF LABOR

Employee Benefits Security Office

EMPLOYEE BENEFIT PLANS

Pendency of Proposed Exemption Relating to a Transaction Involving the Laborers' Training and Retraining Trust Fund for Southern California (Application No. L-307)

Notice is hereby given of the pendency before the Department of Labor (the Department) of a proposed exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act). The pending exemption was requested in an application by the trustees of the Laborers' Training and Retraining Trust Fund for Southern California (the Plan) for a transaction involving construction by parties in interest of permanent training facilities for the Plan in Rancho Bautista, California, for the purpose of training construction laborers and retraining those laborers already employed in advanced methods and techniques of construction. The application was filed pursuant to section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Summary of Representations. The application contains representations with regard to the pending exemption, which are summarized below. Interested persons are referred to the application filed with the Department for the complete representations of the trustees of the Plan.

The Plan is a multi-employer multiunion training trust whose activities are exclusively devoted to the training and retraining of construction laborers in skill categories generally represented by the Laborers' Union.

The Plan is currently using an abandoned Nike Missile Base as training facilities. The Plan has recently purchased unimproved real property in Rancho Bautista, Riverside County, California, for the purpose of constructing new, permanent training facilities, which include classroom and field training facilities as well as dormitories, staff residences and dining and recreational facilities for the trainees.

Contracts for construction of the new training facilities will be awarded through a competitive bidding process. An architect and civil engineer have drawn up specifications for the project and the architect will be responsible for soliciting bids. Neither the architect nor the engineer have any present or have had any prior business relationships with any of the prospective bidders. If any subcontractor should appear upon the list of subcontractors of the general contractor which is submitted with the general contractor's bid (and contains the names of all the subcontractors whose portion of the work will be 5 percent or more of the value of the project) and it apears to the trustees that there is any business relationship between the architect and such subcontractor, the subcontractor will be disqualified. The successful bidder will be selected by the Plan trustees upon the recommendation of the architect. A firm fixed price contract will be awarded to the lowest responsive, responsible bidder. A bidder is responsive if his bid is predicated upon the specifications published by the architect and the civil engineer and not predicated upon any substitution in quality, quantity or nature of the materials of construction. A bidder is responsible if he can show proof of prior experience in projects of this magnitude and evidence of financial responsibility. Construction costs will be approximately $5,000,000.

Bids will be solicited from contributing employers because it is customary for this type of Plan to deal with union contractors and the overwhelming majority of the contractors competent to undertake the project are contributors to the Plan. A list of general contractors competent to undertake a project of this size was compiled by the trustees, the architect and the engineer, and approximately 40 indications of interest have been obtained.

The general contractor and subcontractors will be parties in interest solely because such contractors are employers who contribute to the Plan pursuant to the collective bargaining agreement. No bid will be accepted from any contributing employer, whether as a general contractor or subcontractor, if any agent, employee, officer or representative of such contributing employer is a trustee of the Plan, or if the employees of such contributing employer constitute 5 percent or more of the total number of Plan participants. Further, no agent, employee, officer or representative of any contributing employer selected to be the general contractor (or subcontractor) will be a trustee of the Plan during the course of construction.

Notice of the requested exemption as published in the FEDERAL REGISTER will be posted conspicuously in the union office and hiring hall of each union participating in the Plan and at the administrative office of the Plan for at least thirty (30) days beginning within five (5) days after publication of the Notice in the FEDERAL REGISTER.

General Information. The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act, 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 Plan's participants and beneficiaries and in a prudent fashion in accordance with subsection (a)(1)(B) of section 404 of the Act;

(2) The pending exemption, if granted, does not extend to transactions prohibited under section 406(b) of the Act;

(3) Before an exemption may be granted undersection 408(a) of the Act, 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 pending exemption, if granted, is supplemental to, and not in derogation of, any other provisions of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is the subject of an exemption is not dispositive of whether the transaction would have been a prohibited transaction in the absence of such exemption, or though it would have been a prohibited transaction, is exempt by operation of a statutory exemption or a transitional rule.

All interested persons are invited to submit written comments on the pending exemption. All written comments (preferably six copies) should be addressed to the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. L-307.

In order to receive consideration, such comments must be received by the Department on or before November 5, 1976.

The application for exemption referred to herein and such comments will be open to public inspection at the Public Document Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

Pending Exemption. Based upon the application hereinabove described, the Department has under consideration the granting of the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) so that the restrictions of section 406(a) of the Act shall not apply to the construction of permanent training facilities for the Plan in Rancho Bautista, California, by parties in interest who are contributing employers to the Plan, pursuant to the terms, conditions and representations set forth in the application.

The pending 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 in Washington, D.C. this 24th day of September 1976.

JAMES D. HUTCHINSON,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc.76-28504 Filed 9-24-76;4:09 pm]

ADVISORY COUNCIL ON EMPLOYEE WELFARE AND PENSION BENEFIT PLANS

Meeting

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1142) a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:00 a.m. on Wednesday, October 13, 1976, in the Federal Ballroom North, Quality Inn—Capitol Hill, 415 New Jersey Avenue, N.W., Washington, D.C.

The meeting will be open to the public. The purpose of the meeting is to discuss the items listed in the following agenda:

1. Minimum Standards Work Group Report.
2. Small Plans Impact Work Group Report.
3. Investment Work Group Report.
4. ERISA Implementation Work Group Report.

Any member of the public may file a written statement concerning the topics under this agenda by submitting 30 copies on or before the close of business Tuesday, October 12, 1976 to the Administrator of Pension and Welfare Benefit Programs, New Department of Labor Building, Third Street and Constitution Avenue, N.W., Room N4629, Washington, D.C. 20216.

Persons desiring to attend should notify Mr. Edward F. Lysczek, Executive Secretary of the Advisory Council, New Department of Labor Building, Third Street and Constitution Avenue, N.W., Room N4629, Washington, D.C. 20216, or may call Area Code 202-523-8753.

Signed at Washington, D.C. this 23rd day of September 1976.

JAMES D. HUTCHINSON,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc.76-28300 Filed 9-27-76;8:45 am]

Office of the Secretary

[TA-W-931]

BOMBAY SLIPPER CO.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-931: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 10, 1976 in response to a worker petition received on June 10, 1976 which was filed by the Boot and Shoe Workers Union on behalf of workers and former workers producing slippers at the Bombay Slipper Company, Bombay, New York.

The notice of investigation was published in the FEDERAL REGISTER on June 18, 1976 (41 FR 24793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of True Stitch, Inc., the parent company of the Bombay Slipper Company, industry officials, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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 Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increasing quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" maens a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

The Bombay Slipper Company previously produced mops and scuffs. These are soft sole women's bedroom slippers which are constructed of synthetic materials. The evidence developed during the Department's investigation reveals that there are no imports of these slippers. There are no import categories under the TSUSA classification system for women's soft sole slippers.

Industry officials report that freight costs for these slippers are based on volume and not weight. The relatively high freight costs for these slippers, which are bulky, prohibits the importation of these slippers. Furthermore, industry officials stated that slippers are cheaply produced domestically and their construction is simple and requires minimal labor input.

The Bombay Slipper Company decided to terminate the production of these slippers after a customer, who had previously accounted for over 60 percent of the company's total sales of these slippers, declared bankruptcy.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of slippers have not contributed importantly to the total or partial separations of workers at the Bombay Slipper Company, Bombay, New York as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of September 1976.

JAMES D. HOOVER,,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-28233 Filed 9-27-76;8:48 am]

[TA-W-99]

CAROL SHOE DIVISION, SHAER SHOE CORP.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-991: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 19, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing women's dress and evening shoes for Carol Shoe Division of Shaer Shoe Corporation, Lowell, Massachusetts.

The notice of investigation was published in the FEDERAL REGISTER on July 30, 1976 (41 FR 31961). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Carol Shoe Division.

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 Trade Act of 1974 must be met:

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criteria (1) and (2) have not been met.

Carol Shoe Division of Shaer Shoe produces women's fashion footwear, specializing in evening shoes. The shoes produced are mostly of synthetic materials. Carol produces on order and sales closely approximate production.

Carol Shoe Division production increased 25 percent in 1975 compared to 1974 and 31 percent in the first half of 1976 compared to the first half of 1975. Average weekly employment at Carol Shoe Division increased 25 percent in 1975 compared to 1974 and 33 percent in the first half of 1976 compared to the first half of 1975. Employment increased compared to the same quarter of the previous year in five of six quarters from the first quarter of 1975 to the second quarter of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that neither sales nor production decreased absolutely and a significant number or proportion of the workers producing women's dress and evening shoes at Carol Shoe Division of Shaer Shoe, Lowell, Massachusetts have not become totally or partially separated as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-28234 Filed 9-27-76;8:48 am]

[TA-W-936]

CHRYSLER CORP.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-936: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 11, 1976 in response to a worker petition received on June 11, 1976 which was filed by workers and former workers producing dies in Department 3505, at the Twinsburg, Ohio plant of Chrysler Corporation, Detroit, Michigan.

The notice of investigation was published in the FEDERAL REGISTER on July 6, 1976 (41 FR 27801). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Chrysler Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

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 Trade Act of 1974 must be met:

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation reveals that without regard to the other criteria, criterion four has not been met.

Imports of tools, dies, jigs and fixtures increased absolutely every year from $11.7 million in 1971 to $30.1 million in 1974 and then declined to $29.8 million in 1975. In the first quarter of 1976, imports were valued at $6.2 million, down from $8.8 million in the first quarter of 1975. Imports increased relative to domestic production and consumption from 0.52 percent and 0.52 percent, respectively, in 1971 to 1.69 percent and 1.70 percent, respectively, in 1975.

The petitioners alleged that Chrysler Corporation imports of Plymouth Arrows and Dodge Colts had adversely affected the employment of workers in the Tool and Die Department of the Twinsburg, Ohio stamping plant (Department 3505). The Department's investigation focused on the determination of (a) the actual relationship between imports of Dodge Colts and Plymouth Arrows and employment in Department 3505 of the Twinsburg plant and (b) the impact of increases of imports of other Chrysler cars or dies on employment in Department 3505.

The Dodge Colt and Plymouth Arrow are two Chrysler Corporation automobiles marketed in the subcompact car class. The two cars are sold in the United States by Chrysler under license from Mitsubishi Motor Corporation, which constructs and assembles the cars in Japan. Chrysler Corporation has never manufactured any of the parts for or assembled either of these cars or any other subcompact car in its domestic facilities. None of the work done in Department 3505 at the Twinsburg plant has ever been related to the production or repair of dies used to manufacture stampings for any subcompact car marketed by Chrysler Corporation. Therefore, the importation of the Dodge Colt and Plymouth Arrow by Chrysler could not have affected the employment of workers in that Department.

The Department of Labor has previously determined that increases of imports of intermediate size Chrysler cars from Canada had adversely affected the employment of workers assembling those cars at certain domestic Chrysler plants. Adverse impact could also apply to workers producing parts for those adversely affected cars. Department 3505 at the Twinsburg plant did produce dies used to manufacture stampings for intermediate size Chrysler cars. However, all stampings for Chrysler Corporation automobiles, whether they are assembled in the United States or Canada, are produced at stamping facilities located in the United States. Therefore, neither the employment of workers at the Twinsburg Stamping plant nor in Department 3505 could have been adversely affected by the increased importation of the Chrysler cars from Canada.

Department 3505 is a captive supplier of dies to Chrysler Corporation with over 95 percent of its production used to manufacture stampings for Chrysler Corporation cars. Chrysler meets its needs of dies by manufacturing some itself and purchasing some from outside sources. For Model Years 1974–1976, all outside sources of new dies have been located in the United States.

The decline in employment in Department 3505 has been the result of three non-import-related factors: (1) Significant declines in domestic sales of Chrysler cars due to recent adverse domestic economic conditions and the "Energy Crisis" in late 1973; (2) The lengthening of the time between major automotive styling changes from two years to three years; and (3) A decrease in the number of car models offered and an increase in the interchangeability of parts. The latter two decreased the demand for new dies and the first reduced the wear on the dies which reduced the need for repair.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with dies produced in Department 3505 at the Twinsburg, Ohio stamping plant of Chrysler Corporation did not contribute importantly to the total or partial separations of workers of that plant.

Signed at Washington, D.C. this 20th day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-28235 Filed 9-27-76;8:48 am]

Office of the Secretary

[TA-W-932]

CUTE TOGS AND NEW ORLEANS, INC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-932: investigation regarding cer-

tification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 10, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing children's clothing at Cute Togs of New Orleans, Inc., New Orleans, Louisiana. The investigation was expanded to include the Donaldsonville plant of Cute Togs, Donaldsonville, Louisiana. The notice of investigation was published in the FEDERAL REGISTER on June 25, 1976 (41 FR 26295) as amended by 41 FR 27800, July 6, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cute Togs of New Orleans, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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 Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Combined employment of production workers at the New Orleans and Donaldsonville plants declined 27 percent in 1975 from 1974, and increased eight percent in the first half of 1976 compared to the first half of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Cute Togs produces based upon orders received and sales closely approximate production. Sales are not recorded by plant and most production is interchangeable between plants.

Total production by Cute Togs increased 29 percent in 1974 compared to 1973 and declined five percent in 1975 from 1974. Production declined 35 percent in the first six months of 1976 compared to the first six months of 1975.

Cute Togs produces a wide variety of children's clothes. Approximately half of Cute Togs' output in recent years has been of children's play garments such as crawlers, overalls, and playsuits.

INCREASED IMPORTS

Imports of children's play garments increased from 19.1 million units in 1971 to 22.1 million units in 1972 and declined to 11.9 million units in 1974. Imports of 14.4 million units in 1975 remained well below the 1971–1974 average level of 18.1 million units. Imports relative to domestic production increased from 21.3 percent in 1971 to 23.1 percent in 1972, declined to 12.4 percent in 1974 and increased to 15.5 percent in 1975.

Imports of children's dresses, coats and jackets are not separately identifiable from women's and men's garments.

CONTRIBUTED IMPORTANTLY

Production and employment declines at Cute Togs in 1975 and 1976 were due to declines in sales to the firm's two largest customers. Of those customers, one reduced purchases in late 1975 due to financial problems which ultimately resulted in that firm's insolvency. The other major customer, which accounted for 25 percent of sales by Cute Togs in 1974, reduced and ultimately terminated purchases from Cute Togs while increasing purchases from other domestic sources. The customer did not increase purchases of imported children's clothing.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with children's clothing produced by Cute Togs of New Orleans, Inc., New Orleans and Donaldsonville, Louisiana, did not contribute importantly to the decline in sales or production or separation of workers of that firm.

Signed at Washington, D.C. this 14th day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-28236 Filed 9-27-76;8:48 am]

[TA-W-948]

MAJESTIC SILVER CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-948: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 21, 1976 in response to a worker petition received on June 21, 1976 which was filed by the United Auto Workers of America on behalf of workers and former workers producing stainless steel flatware at the Majestic Silver Company, New Haven, Connecticut.

The notice of investigation was published in the FEDERAL REGISTER on July 6, 1976 (41 FR 27802). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Majestic Silver Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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 Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation reveals that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Company employment declined 30.0 percent in 1975 compared to 1974 and declined 28.0 percent in the first half of 1976 compared to the like 1975 period.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales declined 36.1 percent in quantity in 1975 compared to 1974 and declined 7.6 percent in quantity in the first half of 1976 compared to the like 1975 period.

Company production declined 30.5 percent in quantity in 1975 compared to 1974 and declined 5.2 percent in the first half of 1976 compared to the like 1975 period.

INCREASED IMPORTS

Imports of stainless steel flatware increased 5.5 percent from 33,247,000 dozens in 1974 to 35,064,000 dozens in 1975 and increased 18.3 percent from 15,822,000 dozens for the first six months of 1975 to 18,713,000 dozens for the like 1976 period. Imports of stainless steel flatware accounted for 73.1 percent of total domestic consumption for the first half of 1976.

CONTRIBUTED IMPORTANTLY

A geographic sampling reveals that customers of the Majestic Silver Company have reduced purchases from majestic and have increased their purchases of imported stainless steel flatware. Customers report that they have increased

their purchases of imported stainless steel flatware due to the lower prices available on the imported flatware.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of stainless steel flatware have contributed importantly to the total or partial separation of workers at the Majestic Silver Company, New Haven, Connecticut. In accordance with the provisions of the Act, I make the following certification:

All workers at the New Haven, Connecticut plant of the Majestic Silver Company who became totally or partially separated from employment on or after June 16, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-28237 Filed 9-27-76;8:48 am]

[TA-W-944]

MARBLE UNLIMITED, INC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-944: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 21, 1976 in response to a worker petition received on that date which was filed by Local 10 of the International Association of Marble and Stone Polishers, Rubbers and Sawyers, Title, Marble, Slate, Stone, Mosaic and Terrazzo Helpers on behalf of workers and former workers setting marble at Marble Unlimited, Inc., Belleville, New Jersey.

The notice of investigation was published in the FEDERAL REGISTER on July 6, 1976 (41 FR 27802). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Marble Unlimited, Inc., other marble contractors, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

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 Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any one of the above criteria is not satisfied, a negative determination must be made.

The Department of Labor has already determined that the performance of services is not included within the term "articles" as used in Section 222(3) of the Trade Act of 1974. See Notice of Negative Determination in *Pan American World Airways, Incorporated* (TA-W-153; 40 FR 54639).

Marble Unlimited, Inc. is a marble contractor located in Belleville, New Jersey. Although a shop is maintained on its premises, for the purpose of polishing and fabricating marble, 95 percent or more of the total labor time of Marble Unlimited over the past year has been utilized in the performance of the service of setting marble in building interiors. All the helpers employed by Marble Unlimited over the past year have been engaged in the service of setting domestic and imported pre-fabricated marble.

CONCLUSION

After careful review of the issues, I have determined that services of the kind provided by Marble Unlimited Inc. are not "articles" within the meaning of Section 222(3) of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-28238 Filed 9-27-76;8:45 am]

[TA-W-1002]

MCKENNA INDUSTRIES, INC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1002: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 29, 1976 in response to a worker petition dated June 30, 1976 which was filed on behalf of workers and former workers of the Chicago, Illinois outlets of McKenna Industries, Inc.

The notice of investigation was published in the FEDERAL REGISTER on August 13, 1976 (41 FR 34393). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of McKenna Industries, Inc., and Department files.

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 Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than and other cause.

If any one of the above criteria is not satisfied, a negative determination must be made.

The Department of Labor has already determined that the performance of services is not included within the term "articles" as used in Section 222(3) of the Act. See Notice of Negative Determination in Pan American Airways, Incorporated (TA-W-153; 40 FR 54639).

McKenna Industries, Inc. is a retail organization specializing in the retail sale and installation of automobile stereos, speakers and home electronic entertainment equipment. McKenna Industries, Inc. does not own any production facilities nor does McKenna manufacture any of the products it sells. All items sold by McKenna Industries are bought directly from manufacturers or their representatives. The company is not involved in the production of "articles" within the meaning of Section 222(3) of the Act.

CONCLUSION

After careful review of the issues I have determined that services of the kind provided by McKenna Industries, Inc., Chicago, Illinois are not "articles" within the meaning of Section 222(3) of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-28239 Filed 9-27-76;8:48 am]

[TA-W-971]

NEW YORK CITY MARBLE SHOP OF THE ATLAS-PORT MORRIS MARBLE CO.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 30, 1976 in response to a worker petition received on that date which was

filed by the International Association of Marble, Slate, and Stone Workers on behalf of former workers who fabricated marble at the New York City marble shop of the Atlas-Port Morris Marble Company, New Rochelle, New York.

The notice of investigation was published in the FEDERAL REGISTER on July 27, 1976 (41 FR 31275). No public hearing was requested and none was held.

During the course of the investigation, it was established that all employment at the Atlas-Port Morris marble shop was terminated in June 1974. Section 223 (b) (1) of the Trade Act of 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the firm or an appropriate subdivision of the firm occurred more than twelve months before the date of filing under Title II, Chapter 2 of the Trade Act of 1974.

The date of the petition in this case is June 3, 1976 and, thus, workers terminated prior to June 3, 1975 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of September 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-28240 Filed 9-27-76;8:45 am]

[TA-W-840]

REED & PRINCE MANUFACTURING CO.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-840: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 30, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of American on behalf of workers and former workers producing ferrous and non-ferrous fasteners at Reed and Prince Manufacturing Company, Worcester, Massachusetts.

The notice of investigation was published in the FEDERAL REGISTER on May 21, 1976 (41 FR 20961). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Reed and Prince Manufacturing Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

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 Trade Act of 1974 must be met:

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at Reed and Prince increased 6 percent in 1974 compared to 1973 and decreased 23 percent in 1975 compared to 1974. Employment of production workers declined 15 percent in the first quarter of 1975 compared to the previous quarter and declined 22 percent in the second quarter of 1975 compared to the first quarter. Employment then steadily increased in each succeeding quarter of 1975 and in the first quarter of 1976. The average number of production workers increased 14 percent in the first four months of 1976 compared to the same period of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total sales of screws by Reed and Prince increased 16 percent in 1974 compared to 1973 and declined 21 percent in 1975 compared to 1974. Sales declined 23 percent in the first quarter of 1975 compared to the previous quarter and then steadily increased in each succeeding quarter of 1975 and in the first two quarters of 1976. In the first six months of 1976 sales increased 23 percent compared to the same period in 1975. Sales of imported wood screws by Reed and Prince as a proportion of total company sales increased from 30.8 percent in 1973 to 31.1 percent in 1974 and 33.8 percent in 1975.

Production of screws by Reed and Prince increased 7 percent in 1974 compared to 1973 and declined 48 percent in 1975 compared to 1974. Production decreased 44 percent in the first quarter of 1975 compared to the previous quarter and then steadily increased in each succeeding quarter of 1975 and in the first quarter of 1976. In the first four months of 1976 production increased 82 percent compared to the same period in 1975. Ferrous fasteners comprised nearly 70 percent of output by Reed and Prince in recent years.

INCREASED IMPORTS

Domestic manufacturers of standard ferrous fasteners have experienceed a steady erosion of their market in recent years as a result of import competition. Imports of ferrous screws increased absolutely in each year from 1971 to 1974 and increased relative to domestic production and consumption in each year from 1971 to 1975. Although imports declined absolutely in 1975 from 1974, the ratio of imports of screws to domestic production and consumption increased steadily from 19.6 percent and 17.1 percent, respectively, in 1971 to 38.2 percent and 29.9 percent, respectively, in 1975.

CONTRIBUTED IMPORTANTLY

The evidence developed in the Department's investigation indicates that in recent years customers reduced their purchases of standard screws from Reed and Prince and increased their purchases of imported screws. Customers stated that there was a significant price differential between domestically produced and foreign produced fasteners.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ferrous and non-ferrous fasteners produced by Reed and Prince Manufacturing Company contributed importantly to the total or partial separations of workers at that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All employees of the Reed and Prince Manufacturing Company, Worcester, Massachusetts who became totally or partially separated from employment on or after April 15, 1975 and before August 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers who were separated on or after August 1, 1975 are denied certification of eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 17th day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-28241 Filed 9-27-76;8:48 am]

[TA-W-873]

TYROL SPORTWEAR CO.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-873: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 19, 1976 in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's and men's sweaters at the the Tyrol Sportwear Company, Brooklyn, New York.

The notice of investigation was published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23821). No public

hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Tyrol Sportwear, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the worker's firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at Tyrol Sportwear decreased 41 percent in 1975 from 1974. Employment at Tyrol Sportwear which had declined annually since 1973, was curtailed completely when the entire plant was shut down on March 26, 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of women's and men's sweaters declines 28.7 percent in quantity in 1975 from 1974 and declined 2.7 percent in the first quarter of 1976 compared to the first quarter of 1975. All production operations at Tyrol were ceased in March 1976.

INCREASED IMPORTS

Imports of women's sweaters increased absolutely and relatively each year from 1973 through 1975. There was a 47.5 percent increase of imports of women's sweaters in the first six months of 1976 compared to the same period in 1975.

Although imports of men's sweaters declined in 1975 from 1974, the ratio of imports to domestic production increased in 1975 compared to 1974, as did the ratio of imports to domestic consumption. Imports of men's sweaters in the first six months of 1976 were 84.2 percent greater than in the first six months of 1975.

CONTRIBUTED IMPORTANTLY

Customers of Tyrol Sportwear Company who are buying from foreign sources, are reducing purchases of men's and women's sweaters from Tyrol Sportwear while increasing purchases of imported women's and men's sweaters. The customers are able to purchase women's and men's sweaters from foreign sources at a lower cost than sweaters available domestically.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's and men's sweaters produced at Tyrol Sportwear Company, Brooklyn, New York, contributed importantly to the total or partial separations of the workers at that firm. In accordance with the provisions of the Act, I make the following certifications:

All workers of the Tyrol Sportwear Company, Brooklyn, New York, who became totally or partially separated from employment on or after May 4, 1975 are certified eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant,
to the Deputy Under Secretary.

[FR Doc.76-28242 Filed 9-27-76;8:48 am]

U.S. STEEL CORP.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-938: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 15, 1976 in response to a worker petition received on June 15, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing wire rope and strand at the New Haven, Connecticut plant of the U.S. Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on July 6, 1976 (41 FR 27805). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of U.S. Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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 Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely; and

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

Imports of wire rope increased each year compared to the previous year, both actually and relative to domestic production, from 1972 through 1974. Imports decreased actually 18 percent in 1975 compared to 1974, and 53 percent in the first quarter of 1976 compared to the like period in 1975. The ratio of imports to domestic production decreased from 26.0 percent in 1974 to 23.2 percent in 1975, and from 34.9 percent in the first quarter of 1975 to 19.7 percent in the first quarter of 1976.

Imports of wire strand increased actually each year compared to the previous year from 1972 through 1974. Imports decreased 31 percent in 1975 compared to 1974. The ratio of imports to domestic production increased in 1972 and 1973 compared to the previous year, decreased in 1974, and decreased from 35.7 percent in 1974 to 27.8 percent in 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that articles like or directly competitive with those produced by the New Haven, Connecticut plant of the U.S. Steel Corporation are not being imported in increased quantities, either actual or relative to domestic production and therefore workers at the New Haven, Connecticut plant of the U.S. Steel Corporation are not eligible to apply for adjustment assistance under the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant
to the Deputy Under Secretary.

[FR Doc.76-28243 Filed 9-27-76;8:45 am]

Office of the Secretary

[TA-W-933]

WARNACO, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-933: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 10, 1976 in response to a worker petition received on June 10, 1976 which

was filed on behalf of workers and former workers producing men's sweaters and sportshirts at Warnaco Men's Sportwear, Inc., Altoona, Pennsylvania, a division of Warnaco, Inc., Bridgeport, Connecticut.

The notice of investigation was published in the FEDERAL REGISTER on July 6, 1976 (41 FR 27805). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Warnaco, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

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 Trade Act of 1974 must be met:

(1) That a significant number of portion of the workers in such workers' firm or an appropriate subdivision thereof have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or eubdivision have decreased solutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Plant employment declined 15.6 percent in 1975 compared to 1974 and declined 12.6 percent in the first half of 1976 compared to the like 1975 period. Workers are used interchangeably in the production of men's sweater and sportshirts.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Division sales of men's sportshirts declined in quantity 1.8 percent in 1975 compared to 1974 and declined 25.5 percent in the first half of 1976 compared to the first half of 1975.

Division sales of men's sweaters declined in quantity 28.0 percent in 1975 compared to 1974 and declined 28.2 percent in the first half of 1976 compared to the first half of 1975.

Plant production of men's sweaters declined 40.7 percent in quantity in 1975 compared to 1974 and declined 43.6 percent in the first quarter of 1976 compared to the like 1975 period.

Although plant production of men's sportshirts increased 6.3 percent in quantity in 1975 compared to 1974, plant production declined 43.1 percent in the first quarter of 1976 compared to the like 1975 period.

INCREASED IMPORTS

Imports of men's and boys' knit sport and dress shirts increased from 54.9 million units in 1974 to 66.2 million units in 1975 and increased 17.6 percent from 31.9 million units in the first six months of 1975 to 37.5 million units for the like 1976 period.

Imports of men's and boys' sweaters increased 84.2 percent from 5.7 million units in the first half of 1975 to 10.5 million units for the like 1976 period.

CONTRIBUTED IMPORTANTLY

A geographic samping of the customers of men's sweaters and sportshirts which are produced at the Altoona plant indicates that the customers of Warnaco's Men's Sportswear Division who have reduced their purchases of the above products have increased their purchases of competitive imported products.

Warnaco increased company imports of men's sportshirts 144.1 percent in quantity in 1975 compared to 1974 and 3.9 percent in quantity in the first quarter of 1976 compared to the like 1975 period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of men's sweaters and sportshirts have contributed importantly to the total or partial separations of workers at the Altoona, Pennsylvania plant of Warnaco, Inc. In accordance with the provisions of the Act, I make the following certification:

All workers at the Altoona, Pennsylvania plant of Warnaco, Incorporated who became totally or partially separated from employment on or after June 3, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-28361 Filed 9-27-76;8:45 am]

[TA-W-884]

BETHLEHEM STEEL CORP. LACKAWANNA WORKS

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-884: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 19, 1976 in response to a worker petition received on May 19, 1976 which was filed by three workers on behalf of workers and former workers producing steel bars, beams, strips, ingots, billets and specialty steel items. The investigation revealed that the following products were also produced: carbon steel sheet, structural shapes and piling, slabs, blooms and steel rail.

The Notice of Investigation was published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23819). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bethlehem Steel Corporation and its customers, the U.S. Department of Commerce, the American Iron and Steel Institute, the U.S. International Trade Commission, industry analysts and Department files.

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 Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that with respect to those workers engaged in the production of structural steel and piling in the Mills Structural and Slabbing Division, all four criteria have been met. With respect to those workers engaged in the production of steel ingots, blooms and slabs in the plant's Steelmaking Division, carbon steel sheet and strip in the plant's Strip Mill Division and specialty items, consisting primarily of guard rail, corrugated roofing and steel shapes, in the plant's Specialty Products Shop, the fourth criterion has not been met. With respect to those workers engaged in the production of bars in the Mills Bar Division, the third criterion has not been met and with respect to those workers engaged in the production of steel rail in the Mills Bar Division, the second criterion has not been met.

SIGNIFICANT TOTAL AND PARTIAL SEPARATIONS

Employment of production workers in the plant's Steelmaking Division engaged in the production of steel ingots, blooms and slabs decreased 4.9 percent in 1974 compared with 1973, decreased 58.3 percent in 1975 compared with 1974 and decreased 11.1 percent in the first half of 1976 compared with the first half of 1975.

Employment of production workers engaged in sheet and strip production in the plant's Strip Mill Division decreased

5.6 percent in 1974 compared with 1973, decreased 53.3 percent in 1975 compared with 1974 and increased 85.8 percent in the first half of 1976 compared with the first half of 1975.

Employment of production workers engaged in the production of structural steel and piling in the Mills Structural and Slabbing Division decreased 7.0 percent in 1974 compared with 1973, decreased 55.3 percent in 1975 compared with 1974 and decreased 45.8 percent in the first half of 1976 compared with the first half of 1975.

Employment of production workers engaged in the production of bar and steel rail in the Mills Bar Division decreased 14.0 percent in 1974 compared with 1973, decreased 27.8 percent in 1975 compared with 1974 and decreased 13.3 percent in the first half of 1976 compared with the first half of 1975.

Employment of production workers in the plant's Specialty Products Shop engaged in the production of special products such as guard rail and specified shapes decreased 9.1 percent in 1974 compared with 1973, decreased 66.0 percent in 1975 compared with 1974 and decreased 5.7 percent in the first half of 1976 compared with the first half of 1975.

Sales or Production, or Both, Have Decreased Absolutely

Sales to trade customers of blooms, slabs and ingots from Lackawanna's Steelmaking Division in terms of quantity decreased 68.2 percent in 1974 compared with 1973, increased 46.6 percent in 1975 compared with 1974 and decreased 90.0 percent in the first quarter of 1976 compared with the first quarter of 1975. Sales of blooms, slabs and ingots have never exceeded 5.0 percent of the Division's production of blooms, slabs and ingots since 1973.

Sales of sheet and strip in terms of quantity from the plant's Strip Mill Division increased 2.9 percent in 1974 compared with 1973, decreased 53.8 percent in 1975 compared with 1974 and decreased 30.5 percent in the first quarter of 1976 compared with the first quarter of 1975.

Sales of structural steel and piling in terms of quantity from the Mills Structural and Slabbing Division decreased 17.0 percent in 1974 compared with 1973, decreased 45.0 percent in 1975 compared with 1974 and decreased 82.1 percent in the first quarter of 1976 compared with the first quarter of 1975. No wide flanged structural steel has been produced at Lackawanna since May 1975.

Sales of bar in terms of quantity from the Mills Bar Division decreased 1.7 percent in 1974 compared with 1973, decreased 31.6 percent in 1975 compared with 1974 and decreased 30.8 percent in the first quarter of 1976 compared with the first quarter of 1975.

Sales of special items from the plant's Specialty Products Shop in terms of quantity decreased 15.9 percent in 1974 compared with 1973, decreased 48.9 percent in 1975 compared with 1974 and decreased 22.6 percent in the first quarter of 1976 compared with the first quarter of 1975.

Sales of rail in terms of quantity from the plant's Bar Mill Division increased 120.9 percent in 1974 compared with 1973, increased 80.7 percent in 1975 compared with 1974 and increased 95.1 percent in the first quarter of 1976 compared with the first quarter of 1975.

Production of ingots, slabs, and blooms in terms of quantity in the plant's Steelmaking Division decreased 17.5 percent in 1974 compared with 1973, decreased 42.4 percent in 1975 compared with 1974 and decreased 17.4 percent in the first quarter of 1976 compared with the first quarter of 1975.

Production of sheet and strip in the plant's Strip Mill Division in terms of quantity increased 3.0 percent in 1974 compared with 1973, increased 55.9 percent in 1975 compared with 1974 and increased 30.7 percent in the first quarter of 1976 compared with the first quarter of 1975.

Production of structural shapes and pilings in the plant's Structural and Slabbing Mill Division in terms of quantity decreased 20.8 percent in 1974 compared with 1973, decreased 47.2 percent in 1975 compared with 1974 and decreased 82.0 percent in the first quarter of 1976 compared with the first quarter of 1975.

Production of bars in terms of quantity in the plant's Bar Mill Division decreased 7.9 percent in 1974 compared with 1973, decreased 33.5 percent in 1975 compared with 1974 and decreased 29.9 percent in the first quarter of 1976 compared with the first quarter of 1975.

Production of specialty items in terms of quantity in the plants Specialty Products Shop decreased 19.9 percent in 1974 compared with 1973, decreased 50.6 percent in 1975 compared with 1974 and decreased 37.5 percent in the first quarter of 1976 compared with the first quarter of 1975.

Production of rail in terms of quantity in the Mills Bar Division increased 155.8 percent in 1974 compared with 1973, increased 96.4 percent in 1975 compared with 1974 and increased 81.0 percent in the first quarter of 1976 compared with the first quarter of 1975.

Increased Imports

Carbon steel blooms, slabs and ingots are included in a category also including castings, billets and sheet bars. Imports of this category decreased 5.3 percent in 1972 compared with 1971, decreased 45.7 percent in 1973 compared with 1972, increased 40.0 percent in 1974 compared with 1973, increased 48.7 percent in 1975 compared with 1974 and decreased 43.6 percent in the first quarter of 1976 compared with the first quarter of 1975. The ratios of imports to domestic production and consumption increased from 0.10 percent for each in 1974 to 0.18 percent for each in 1975 and decreased from 0.22 percent for each in the first quarter of 1975 to 0.14 percent for each in the first quarter of 1976.

Imports of carbon steel sheet and strip decreased 9.7 percent in 1972 compared with 1971, decreased 15.8 percent in 1973 compared with 1972, decreased 3.1 percent in 1974 compared with 1973, decreased 23.3 percent in 1975 compared with 1974 and decreased 16.3 percent in the first quarter of 1976 compared with the first quarter of 1975. The ratios of imports to domestic shipments and consumption increased from 13.3 percent and 12.1 percent, respectively, in 1974 to 14.9 percent and 13.0 percent, respectively, in 1975 and decreased from 18.4 percent and 15.7 percent, respectively, in the first quarter of 1975 to 11.7 percent and 10.5 percent, respectively in the first quarter of 1976.

Imports of carbon steel structural shapes and piling increased 9.1 percent in 1972 compared with 1971, decreased 22.1 percent in 1973 compared with 1972, decreased 7.9 percent in 1974 compared with 1973, decreased 29.2 percent in 1975 compared with 1974 and increased 16.7 percent in the first half of 1976 compared with the first half of 1975. The ratio of imports to domestic shipments increased from 19.1 percent in 1974 to 19.2 percent in 1975 and the ratio of imports to domestic consumption decreased from 16.8 percent in 1974 to 16.6 percent in 1975. The ratios of imports to domestic shipments and consumption increased from 18.5 percent and 16.1 percent, respectively, in the first half of 1975 to 30.6 percent and 23.9 percent, respectively, in the first half of 1976.

Imports of bar increased 6.8 percent in 1972 compared with 1971, decreased 9.2 percent in 1973 compared with 1972, decreased 8.5 percent in 1974 compared with 1973, decreased 37.1 percent in 1975 compared with 1974 and decreased 60.5 percent in the first half of 1976 compared with the first half of 1975. The ratios of imports to domestic shipments and consumption decreased from 8.6 percent and 8.1 percent, respectively, in 1974 to 7.7 percent and 7.2 percent, respectively, in 1975 and decreased from 9.8 percent and 9.1 percent, respectively, in the first half of 1975 to 4.0 percent and 8.9 percent, respectively, in the first half of 1976.

Imports of steel rail increased 31.4 percent in 1972 compared with 1971, decreased 0.5 percent in 1973 compared with 1972, increased 26.1 percent in 1974 compared with 1973, increased 81.2 percent in 1975 compared with 1974 and decreased 77.0 percent in the first quarter of 1976 compared with the first quarter of 1975. The ratios of imports to domestic shipments and consumption increased from 5.4 percent and 5.6 percent, respectively, in 1974 to 7.7 percent and 8.0 percent, respectively, in 1975 and decreased from 6.6 percent and 6.5 percent, respectively, in the first quarter of 1975 to 1.4 percent and 1.5 percent, respectively, in the first quarter of 1976.

Contributed Importantly

Over 95 percent of the steel ingots, blooms and slabs of the plant's Steelmaking Division are consumed by Bethlehem Steel Corporation in the production of

steel products at either the Lackawanna plant or at other Bethlehem Steel Mills. Less than 5 percent of the Division's production represents sales to trade customers.

Carbon steel structural shapes and piling customers of the Mills Structural and Slabbing Division indicated that imports were an important factor in current procurement decisions. Some customers had shifted purchases of steel to foreign sources because of its lower price. All customers indicated that foreign structural steel and piling are readily available at cheaper prices than domestic steel and that the availability and use of this foreign steel together with the current slump in the construction industry were adversely affecting their businesses.

Carbon steel sheet and strip customers of the plant's Strip Mill Division were primarily engaged in the manufacture of automobiles and automobile component parts. Use of imported steel was minimal by these customers although domestic supply conditions in 1974, in which steel consumers were placed on allocation basis by the domestic steel industry, in some cases did affect steel purchase patterns in 1974 and somewhat in 1975. Fluctuations in purchases of sheet and strip were primarily in response to changes in sales and production in the auto industry. Purchases of sheet and strip were substantial in 1974 as the auto industry prospered but dropped sharply in 1975 as automobile sales and production fell. Purchases of sheet and strip have been increasing in 1976. The Department has not recommended a certification in any prior case involving carbon steel sheet and strip based on the facts and information presented.

The Lackawanna plant's Specialty Products Shop produces highway guard rail, guard rail material, corrugated roofing and a variety of shapes and products manufactured to customer specifications. These customers indicated that they had not shifted purchases to foreign sources. Purchases were influenced by domestic business conditions and in the case of guard rail and guard rail material were influenced by State and Federal specifications for the use of domestic product only.

Conclusion

After review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with carbon steel structural shapes and piling produced in the Mills Structural and Slabbing Division of the Lackawanna plant of Bethlehem Steel Corporation, located in Woodlawn, New York, contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Lackawanna plant of Bethlehem Steel Corporation, Woodlawn, New York, engaged in the production of carbon steel structural shapes and piling in the Mills Structural and Slabbing Division who became totally or partially separated from employment on or after May 7, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that increases of imports like or directly competitive with steel ingots, blooms and slabs produced in the plant's Steelmaking Division, carbon steel sheet and strip produced in the plant's Strip Mill Division, bar and steel rail produced in the Mills Bar Division and special products produced in the plant's Specialty Products Shop did not contribute importantly to the total or partial separations of the workers at that plant.

Signed at Washington, D.C. this 20th day of September 1976.

James D. Hoover,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-28362 Filed 9-27-76;8:45 am]

[TA-W-950]

BROWN SHOE CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-950: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 24, 1976 in response to a worker petition received on that date which was filed by the Boot and Shoe Workers Union on behalf of workers and former workers producing handbags at the Versailles, Missouri plant of Brown Shoe Company.

The Notice of Investigation was published in the Federal Register on July 16, 1976 (41 FR 29506). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials and publications of the Brown Shoe Company, its customers, the Department of Commerce, the International Trade Commission, industry analysts and Department files.

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 Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation has revealed that all of the above criteria have been met.

Significant Total or Partial Separations

Average employment of production workers decreased 20 percent in 1974 compared with 1973 and 33 percent in 1975 compared with 1974. Employment in the first half of 1976 was 7 percent lower than in the first half of 1975.

Sales or Production, or Both, Have Decreased Absolutely

Annual sales in quantity of handbags at the Versailles plant of Brown Shoe Co. declined 9 percent in 1974 compared to 1973 and 42 percent in 1975 compared to 1974. Sales in the first six months of 1976 increased 32 percent compared to the first six months of 1975.

Annual production in quantity of handbags at the Versailles plant of Brown Shoe Co. declined 9 percent in 1974 compared to 1973 and declined 42 percent in 1975 compared to 1974. Production in the first half of 1976 increased 30 percent compared to the first half of 1975.

Increased Imports

Imports of handbags into the U.S. increased absolutely in 1972 compared to 1971 and decreased in 1973 and 1974. In 1975, imports increased to 57.9 million from 54.4 million in 1974, and in the first quarter of 1976 imports were 21.1 million compared to 13.8 million in the first quarter of 1975.

Relatively, imports increased in 1972 and 1973 from the previous year, and decreased in 1974. In 1975, imports were 76.08 percent of domestic production compared to 70.01 percent in 1974. In the first quarter of 1976, imports were 122.67 percent of domestic production compared to 93.88 in the first quarter of 1975.

Contributed Importantly

Customers of Brown Shoe Company indicated that they have decreased purchases of handbags from Brown Shoe, and have increased purchases of imported handbags.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with handbags produced at the Versailles, Missouri plant of the Brown Shoe Company contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Versailles, Missouri plant of the Brown Shoe Company who became totally or partially separated from employment on or after June 6, 1975, are eligible to apply for adjustment assistance

under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of September 1976.

JAMES D. HOOVER,
Acting Executive Assistant to the Deputy Under Secretary.

[FR Doc.76-28363 Filed 9-27-76;8:45 am]

[TA-W-972]

DEBRA CO., INC.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 30, 1976 in response to a worker petition received on that date which was was filed on behalf of former workers producing women's slips, petticoats, and under pants at Debra Company, Inc., Mayaquez, Puerto Rico.

Notice of the investigation was published in the FEDERAL REGISTER on July 16, 1976 (41 FR 29510). No public hearing was requested and none was held.

During the course of the investigation, it was established that the most recent involuntary separations at Debra Company, Inc., occurred in March 1975 when the Company closed. Section 223(b) of the Trade Act of 1974 provides, in substance, that a certification shall not apply to any worker whose last total or partial separation from the firm or an appropriate subdivision of the firm occurred more than one year before the date of the petition on which such certification is granted.

The date of the petition in this case is June 2, 1976 and, thus, workers laid off prior to June 2, 1975 could not be eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. Therefore, this investigation has been terminated.

Signed at Washington, D.C., this 14th day of September 1976.

MARVIN F. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-28364 Filed 9-27-76;8:45 am]

[TA-W-1025]

MAJESTIC SWEATER MILLS, INC.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 13, 1976 in response to a worker petition received on that date which was filed by Local 190 of the International Ladies' Garment Workers' Union on behalf of former workers producing sweaters at Majestic Sweater Mills, Inc., Philadelphia, Pennsylvania.

Notice of the investigation was published in the FEDERAL REGISTER on September 7, 1976 (41 FR 37687). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of Majestic Sweater Mills Inc., were previously certified eligible to apply for adjustment assistance on January 16, 1976 (See TA-W-251).

The existing certification will expire on January 16, 1978 unless terminated by the Secretary of Labor. Since workers newly separated, totally or partially, are covered by the existing certification provided such separations occurred on or after the impact date (October 8, 1974) and before the certification expiration date (January 16, 1976), a new investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 17th day of September 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-28365 Filed 9-27-76;8:45 am]

[TA-W-1036]

MILFORD SHOE, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On June 14, 1976 the Department of Labor received a petition dated June 9, 1976 which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Milford Shoe, Inc., Milford, Mass., a division of Morse Shoe Company, Canton, Massachusetts (TA-W-1036). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's shoes produced by Milford Shoe, Incorporated 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. The investigation 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. A group meeting the eligibility requirements of Section 222 of the Act 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.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation 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 October 8, 1976.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 8, 1976.

The petition filed in this case is 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 20th day of August 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-28366 Filed 9-27-76;8:45 am]

[TA-W-1030]

ROBERT BRUCE MANUFACTURING CO., INC.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 13, 1976 in response to a worker petition received on that date which was filed by Local 190 of the International Ladies' Garment Workers' Union on behalf of former workers producing sweaters at Robert Bruce Manufacturing Co., Inc., Philadelphia, Pennsylvania.

Notice of the investigation was published in the FEDERAL REGISTER on September 7, 1976 (41 FR 37688). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of Robert Bruce Manufacturing Co., were previously certified eligible to apply for adjustment assistance on December 17, 1975 (See TA-W-207).

The existing certification will expire on December 17, 1977 unless terminated by the Secretary of Labor. Since workers newly separated, totally or partially, are covered by the existing certification provided such separations occurred on or after the impact date (October 3, 1974) and before the certification expiration date (December 17, 1977), a new investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C., this 17th day of September 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-28367 Filed 9-27-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 153]

ASSIGNMENT OF HEARINGS

SEPTEMBER 23, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 125674 (Sub-No. 12), The Sentinel Star Express Company, DBA Jack Rabbit Express, now assigned October 19, 1976, at Atlanta, Ga. is canceled and reassigned for October 18, 1976 (3 days), at Orlando, Florida, at the Gold Key Inn, 7100 South Orange Blossom Trail and October 22, 1976 (2 days), at Atlanta, Ga., at the American Motor Hotel, Spring Street at Carnegie Way.

MC 10761 (Sub-Nos. 184, 240, 246, 247, 249, 253, 254, 256, 257, 259, 260, 266, 268 and 274), Transamerican Freight Lines, Inc., now assigned September 27, 1976 at Chicago, Illinois, has been postponed to September 28, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C. and continued to December 14, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 108398 (Sub-No. 46), Ringsby-Pacific LTD., now assigned November 8, 1976, at Portland, Oreg. is cancelled and application dismissed.

MC 544 (Sub-No. 1), Vancouver-Portland Bus Co. now being assigned November 8, 1976 (1 week) at Portland, Oregon in a hearing room to be later designated.

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

[FR Doc.76-28356 Filed 9-27-76;8:45 am]

[AB 19 (Sub-No. 19)]

BALTIMORE AND OHIO RAILROAD CO.

Abandonment Portion of the Ohio and Little Kanawha Branch Between Relief and Philo, in Muskingum, Morgan, and Washington Counties, Ohio

SEPTEMBER 17, 1976.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Environmental Affairs Staff to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the qualify of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. § 4321, et seq.

Said comments, which were made by the Village of Malta Corporation, Malta-McConnelsville Chamber of Commerce, Village of Malta, Malta Division of Phillips Industry, Inc., the Ohio Ferro-Alloys Corporation, and Taylor Woodcraft, have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423; telephone 202-275-7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-28358 Filed 9-27-76;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 23, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before October 13, 1976.

FSA No. 43242—*Single Empty Freight Trailers Between Points in Southwestern and Southern Territories.* Filed by Southwestern Freight Bureau, Agent, (No. B-631), for interested rail carriers. Rates on single empty freight trailers, as described in the application, between points in southwestern and southern territories.

Grounds for relief—Rate relationship, short-line distance formula and grouping.

Tariff—Supplement 150 to Southwestern Freight Bureau, Agent, tariff SW/S-84-H, I.C.C. No. 5012. Rates are published to become effective on October 30, 1976.

By the Commission.

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

[FR Doc.76-28355 Filed 9-27-76;8:45 am]

[AB 3 (Sub-No. 9)]

MISSOURI PACIFIC RAILROAD CO.

Abandonment Between Dearing and Dexter in Montgomery, Chautauqua, and Cowley Counties, Kansas

SEPTEMBER 17, 1976.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Environmental Affairs Staff to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq.

Said comments which were made by Gaston-Shore Quarries, Inc., and the South Central Kansas Economic Development District have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423; telephone (202) 275-7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-28357 Filed 9-27-76;8:45 am]

[Notice 126]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 23, 1976.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2095 (Sub-No. 4 TA), filed September 14, 1976. Applicant: KEIM TRANSPORTATION, INC., 420 North Sixth, R.F.D. 2, Box 10, Sabetha, Kans. 66534. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., 700 Kansas Ave., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products and materials and supplies* used in the installation and distribution thereof, from the plantsite and warehouses of Georgia-Pacific Corporation, located at Blue Rapids, Kans., to points

in Illinois, Indiana and Kentucky, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia-Pacific Corporation, Gypsum Division, 1062 Lancaster Ave., Rosemont, Pa. 19010. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Bldg., Topeka, Kans. 66603.

No. MC 77016 (Sub-No. 16 TA), filed September 14, 1976. Applicant: BUDIG TRUCKING CO., 1100 Gest St., Cincinnati, Ohio 45203. Applicant's representative: Jack B. Josselson, 700 Atlas Bank Bldg., Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special handling), from Morehead, Ky., over U.S. Highway 60 to Junction U.S. Highway 60 and Kentucky Highway 182, thence over Kentucky Highway 182 to Grahn, Ky., and return over the same routes, including service to all intermediate points. This route to be used in connection with carrier's otherwise authorized regular route operations. Applicant intends to tack its existing authority with MC 77016. Applicant also intends to interline at Cincinnati, Ohio, St. Louis, Mo., and Lexington, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Ashland Sales and Service, Inc.; Case Inc.; Gibralter Industries, Inc.; Kmart Enterprises, Inc.; Olive Hill Motor Sales, Inc.; and Weather Vane Outwear Corp., Olive Hill, Ky.; and Louisville Fire Brick Works, Grahn, Ky. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operation, Interstate Commerce Commission, 5514–B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 94350 (Sub-No. 368TA), filed September 14, 1976. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Haywood Road at Transit Drive, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, *and buildings*, in sections, mounted on wheeled undercarriages, from points in Rockingham County, N.C., to points in North Carolina, South Carolina, Virginia and West Virginia, for 180 days. Supporting shipper: Nobility Homes, Inc., P.O. Box 878, Reidsville, N.C. 27320. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 106451 (Sub-No. 17TA) filed September 15, 1976. Applicant: COOK MOTOR LINES, INC., P.O. Box 370, Akron, Ohio 44305. Applicant's representative: John P. McMahon, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Columbus, Ohio and Bluefield, West Virginia-Virginia; from Columbus, Ohio over U.S. Highway 23 to Chillicothe, Ohio, thence over U.S. Highway 35 to junction U.S. Highway 60, thence over U.S. Highway 60 to Charleston, W. Va.; thence over U.S. Highway 21 to Bluefield, West Virginia-Virginia and return over the same routes; between Portsmouth, Ohio and Bluefield, West Virginia-Virginia; from Portsmouth, Ohio over U.S. Highway 52 to Bluefield, West Virginia-Virginia, and return over the same route; between Bluefield, West Virginia-Virginia; from Bluefield, West Virginia-Virginia over U.S. Highway 21 to Wytheville, Va., thence over U.S. Highway 11 to Roanoke, Va., and return over the same routes; from Bluefield, West Virginia-Virginia over U.S. Highway 460 to Roanoke, Va., and return over the same route; from Bluefield, West Virginia-Virginia over Interstate Highway 77 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction Interstate Highway 581, thence over Interstate Highway 581 to Roanoke, Va. and return over the same routes; between Columbus, Ohio and Huntington, W. Va.; from Columbus, Ohio over U.S. Highway 23 to junction U.S. Highway 60, thence over U.S. Highway 60 to Huntington, W. Va., and return over the same routes; from Columbus, Ohio over U.S. Highway 23 to junction Interstate Highway 64,

Thence over Interstate Highway 64 to Huntington, W. Va., and return over the same routes; between Wytheville, Va., and Briston, Va.; from Wytheville, Va., over Interstate Highway 81 to Bristol, Va., and return over the same route; between Wytheville, Va., and Galax, Va.; from Wytheville, Va., over U.S. Highway 21 to its junction with U.S. Highways 58 and 221, thence over U.S. Highways 58 and 221 to Galax, Va., and return over the same routes, serving on the above specified routes all intermediate points and all off-route points located in Boone, Cabell, Clay, Fayette, Greenbrier, Jackson, Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Pocahantas, Putnam, Raleigh, Summers, Wayne, Webster and Wyoming Counties, W. Va., and Boyd County, Ky. Applicant intends to tack its existing authority with MC–106451 and sub numbers thereunder. Applicant also intends to interline at Akron and Columbus, Ohio; Wheeling, Clarksburg, Parkersburg, Charleston and Huntington, W. Va.; Bluefield, West Virginia-Virginia and Roanoke, Va., for 180 days. Supporting Shippers: There are approximately 55 statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio 44199.

No. MC 107496 (Sub-No. 1046TA), filed September 14, 1976. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rendered pork fat*, in bulk, in tank vehicles, from Fairbury, Nebr., to Oklahoma City, Okla. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fairbury Foods Co., 4223 Center St., Omaha, Nebr. 68105. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 109397 (Sub-No. 340TA), filed September 13, 1976. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64901. Applicant's representative: T. M. Brown, 223 Ciudad Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid radioactive waste*, in bulk, in tank vehicles, from the facilities of Arkansas Power & Light Co., at or near Sussellville, Ark., to the facilities of Todd Shipyard, at or near Galveston, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: South West Nuclear Company, 7066–A Commerce Circle, Pleasanton, Calif. 94566. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 110525 (Sub-No. 1167TA) filed September 15, 1976. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Ave., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Maleic anhydride*, in bulk, in tank vehicles, from the plantsite of Ashland Chemical Company, at Neal, W. Va., to points in Indiana, New Hampshire, New York and Ohio, for 180 days. Supporting shipper: Ashland Chemical Company, P.O. Box 2219, Columbus, Ohio 43216. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 110525 (Sub-No. 1168TA) filed September 14, 1976. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Ave., P.O. Box 200, Down-

ingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial process water treating compound, liquid*, in bulk, in tank vehicles, (1) from the plantsite of Betz Laboratories at Garland, Tex., to Casper, Wyo.; Valiant, Pryor, Enid and Tulsa, Okla.; Wickliffe, Ky.; Wichita, Eldorado, Bushton and McPherson, Kans.; and to points in Louisiana and (2) from the plantsite of Betz Laboratories at Macon, Ga., to points in Louisiana and Mississippi, restricted in part (1) to exclude those commodities that are petroleum products, for 180 days. Supporting shipper: Betz Laboratories, Inc., Somerton Road, Trevose, Pa. 19047. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 112617 (Sub-No. 351TA) filed September 14, 1976. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Maleic anhydride*, in bulk, in tank vehicles, from the plantsite of Ashland Chemical Co., at or near Neal, W. Va., to points in Connecticut, Delaware, New Jersey, Ohio (east of U.S. Highway 23 and north of U.S. Highway 40), South Carolina, Texas (points in Harris County only), Virginia and Wisconsin, for 180 days. Supporting shipper: Marvin H. Hansen, Traffic Manager, Ashland Chemical Company, P.O. Box 2219, Columbus, Ohio 43216. Send protests to: Elbert Brown, Jr., District Supervisor, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, Ky. 40202.

No. MC 116063 (Sub-No. 147TA) filed September 13, 1976. Applicant: WESTERN-COMMERCIAL RANSPORT, INC., 2929 West 5th St., P.O. Box 270, Fort Worth, Tex. 76101. Applicant's representative: W. H. Cole (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats and vegetable oils*, in bulk, in tank vehicles, from Jacksonville, Ill., to Richmond, Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Denny A. Glassmeyer, Traffic Manager, Anderson Clayton Foods, P.O. Box 6165, Dallas, Tex. 75222. Send protests to: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Room 9A27, Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 125368 (Sub-No. 13TA), filed September 13, 1976. Applicant: CONTINENTAL COAST TRUCKING COMPANY, P.O. Box 26, Holly Ridge, N.C. 28445. Applicant's representative: Herbert Alan Dubin, 1819 H St., N.W., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from Deerfield, Ill., to points in Florida, Georgia, North Carolina, South Carolina, Tennessee and Alabama, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kitchens of Sara Lee, 500 Waukegan Road, Deerfield, Ill. 60015. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 128988 (Sub-No. 87TA) filed September 13, 1976. Applicant: JO-KEL, INC., 159 South Seventh Ave., P.O. Box 1249, City of Industry, Calif. 91749. Applicant representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, foodstuffs, and commodities in bulk), from points in Beaver, Westmoreland, Allegheny, Adams, Mercer and Delaware Counties, Pa., to points in the United States on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary Line between the United States and Canada. Restricted against the transportation of commodities which by reason of size or weight require the use of special equipment. Further restricted to a transportation service to be performed under a continuing contract or contracts with Westinghouse Electric Corporation of Pittsburgh, Pa., for 180 days. Supporting shipper: Westinghouse Electric Corp., 290 Leger Road, North Huntingdon, Pa. 15642. Send protests to: Mary A. Francy, Bureau of Operations, Room 1321 Federal Bldg., 300 North Los Angeles, St., Los Angles, Calif. 90012.

No. MC 136343 (Sub-No. 93TA) filed September 14, 1976. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Woodpulp board, wrapping paper and woodpulp*, from the facilities of The Chesapeake Corporation of Va., located at West Point, Va., to Newark and Yorklyn, Del.; Adams, Charlemont, Dalton, Fitchburg, Holyoke, Housatonic, Irving, Lawrence, Lee, Millers Falls, Monroe Bridge, Northboro, Pepperell, Turners Falls and Whitman, Mass.; Bennington and Claremont Center, N.H.; Amsterdam, Beaver Falls, Binghamton, Buffalo, Carthage, Cohoes, Fulton, Glens Falls, Hudson Falls, Limes Falls, Little Falls, Newton Falls, North Tonawanda, Pulaski, Rochester and Syracuse, N.Y.; Caledonia, Cleveland, Pequa, North Randall and Toledo, Ohio; and Gettysburg, Hanover, Latrobe, New Oxford, Oakmont, Scranton, Tyrone and York, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Chesapeake Corporation of Virginia, West Point, Va. Send protests to: Robert P. Amerine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Bldg., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 138875 (Sub-No. 34TA), filed September 10, 1976. Applicant: SHOEMAKER TRUCKING CO., 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: F. L. Sigloh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Laminated wooden I beams and wood and steel trusses combined*, from the plantsite of Trus Joist Corporation, Eugene, Oreg., to points in Washington and Montana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Trus Joist Corporation, 100 W. 31st, Boise, Idaho. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Box 07, Boise, Idaho 83724.

No. MC 139043 (Sub-No. 2TA), filed September 14, 1976. Applicant: JOSEPH F. SACCOMANNO, doing business as S.A.C. TRANSPORTATION, East 428 14th, Spokane, Wash. 99202. Applicant's representative: Donald A. Ericson, 708 Old National Bank Bldg., Spokane, Wash. 99201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, wine and related advertising material moving therewith*, from points in Sonoma, Solano and Fresno Counties, Calif., to points in Spokane County, Wash., under a continuing contract with B & B Distributors, Inc., for 180 days. Supporting shipper: B & B Distributors, Inc., N. 1004 Ruby, Spokane, Wash. 99202. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, Wash. 98174.

No. MC 139420 (Sub-No. 13TA), filed September 13, 1976. Applicant: ART GREENBERG, doing business as GLACIER TRANSPORT, P.O. Box 428, Grand Forks, N. Dak. 58201. Applicant's representative: James B. Hovland, 425 Gate City Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen novelty confections and dietetic frozen desserts*, from Grand Forks, N. Dak., to Eugene, Oreg., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bridgman Division of Land-O-Lakes, Inc., 9th St., and University Ave., Grand Forks, N.

Dak. 58201. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 142390 (Sub-No. 1TA), filed September 14, 1976. Applicant: TRANSIT MOVING, INC., Colonial Park, Suite 116, 1027 Hollywood Blvd., Iowa City, Iowa 52240. Applicant's representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, Iowa 52001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles or materials, expanded*, in shipper-owned or shipper-leased trailers, (1) from Chicago, Ill., to Iowa City, Iowa; St. Louis, Mo.; and Omaha, Nebr.; and (2) from Omaha, Nebr., to Des Moines, Iowa, under a continuing contract with Clark-Crain Foam Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Clark-Crain Foam Industries, Inc., 1550 E. 97th Place, Chicago, Ill. 60628. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 142441 (Sub-No. 1TA), filed September 14, 1976. Applicant: LARRY DEAN FRIESE, doing business as FRIESE CONSTRUCTION COMPANY, Route 2, Box 190–B, Daphne, Ala. 36526. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergeen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, asphalt and road base materials*, in bulk, in dump vehicles, from Baldwin, Mobile, Escambia, Monroe, Conecuh, Clarke and Washington Counties, Fla., to points in Florida on and west of U.S. Highway 231 and points in Mississippi on and south of U.S. Highway 80, for 180 days. Supporting shipper: Rachels-Horton Industries, d.b.a. Smith-Kelly Supply Company, Box 1227, Mobile, Ala. 36607. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 142444TA, filed September 13, 1976. Applicant: CAL-TEX, INC., 3051 Capri Lane, Costa Mesa, Calif. Applicant's representative: Kellner & Steffire, 700 South Flower St., Suite 818, Los Angeles, Calif., 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular route, transporting: *Synthetic yarn, synthetic fiber and the materials and supplies* used in connection with the manufacturing thereof, from the facilities, production and plantsite of American Enka, located at Enka and Ashville, N.C.; Clemson, S.C.; and Lowlands, Tenn., on the one hand, and the facilities of Pharr Yarns, Inc., located at McAdenville, Gastonia, Belmont, and Spencer Mountain, N.C.; Glover, S.C.; Rome, Ga.; and Los Angeles and Costa Mesa, Calif., on the other. Restriction: The above described service to be restricted to transportation performed under a continuing contract or contracts, with Pharr Yarns, Inc., of McAdenville, N.C., for 180 days. Supporting shipper: Pharr Yarns, Inc., Mary A. Francy, Bureau of Operations, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 142153 (Sub-No. 2TA), filed September 8, 1976. Applicant: DANNER'S INCORPORATED, 102 Bedford St., Houston, Tex. 77012. Applicant's representative: John W. Carlisle, 609 Fannin Bldg., Suite 300, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, restricted to ship's officers, crew members, company personnel and representatives engaged in and responsible for the operation, maintenance, repair and safty of ocean going ships and vessels *and their baggage and detained persons, including stowaways* when moving under guard or in custody of applicant, and their baggage, (a) between Intercontinental Airport, Houston, Tex.; Gulfport-Biloxi Municipal Airport, Gulfport-Biloxi, Miss.; Ryan Airport, Baton Rouge, La., Greenville, Municipal Airport, Greenville, Miss.; Rio Grande Valley Airport, Brownsville, Tex.; Moisant Airport, Metairie, La.; Corpus Christi International Airport, Corpus Christi, Tex.; Lake Charles Municipal Airport, Lake Charles, La.; Jefferson County Airport, Beaumont, Tex., and Scholes Field, Galveston, Tex., on the one hand, and, on the other, the Gulf Ports of Houston Navigation District, Baytown-LaPorte, Galveston, Corpus Christi, Port Lavaca, Orange, Brownsville, Port Arthur, Beaumont, Freeport, Port Neches and Texas City, Tex.; Lake Charles, Baton Rouge, and New Orleans, La.; Biloxi, Gulfport, Pascagoula and Greenville, Miss., and (b) between the Gulf Ports named in (a) above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 8 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Wasington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: John F. Mensing, District Supervisor, Interstate Commerce Commission, 515 Rusk, Room 8610 Federal Bldg., Houston, Tex. 77002.

No. MC 142445 TA filed September 14, 1976. Applicant: DANVILLE SHUTTLE SERVICE, INCORPORATED, Route 6, Box 281, Avalon Drive, Danville, Va. 24541. Applicant's representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, Va. 23229. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, in the same vehicle, between Danville, Va., and the Greensboro-High Point-Winston Salem Airport, at or near Friendship, N.C., from Danville, Va., over U.S. Highway 29 to junction Interstate Highway 85 at or near Greensboro, N.C., thence over Interstate Highway 85 to junction Interstate 40 thence over Interstate 40 to junction Interstate Highway 40 and North Carolina Highway 68, thence over North Carolina Highway 68 to Greensboro-High Point-Winston Salem, Airport and return over the same route serving 00 intermediate points, for 180 days. Supporting shippers: There are approximately 19 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, P.O. Box 210, Roanoke, Va. 24011.

By the Commission.

GORDON H. HOMME, Jr.,
Acting Secretary.

[FR Doc.76-28359 Filed 9-27-76;8:45 am]

federal register

TUESDAY, SEPTEMBER 28, 1976

PART II:

CONSUMER REPRESENTATION PLANS

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THE PRESIDENT

Memorandum for the Heads of Executive Departments and Agencies

THE WHITE HOUSE, *Washington, September 27, 1976.*

This year marks the celebration of our Nation's 200th Birthday. It is appropriate that we embark on the Tricentennial with a reaffirmation of government for the people, by the people. As one more step in this direction, this issue of the FEDERAL REGISTER includes Consumer Representation Plans developed at my request by 17 Federal Executive Branch Departments and Agencies.

In initiating this effort, my guidelines to the Departments and Agencies were that they should work from within and improve the existing structure, rather than create another new agency to oversee other agencies or establish an agency with an adversary function built into its mandate.

Let us not lose sight of our objective: This is a time for open government. Consumers rightly demand to be a part of the decision-making process. It has not taken us 200 years to realize this; however, it has taken too long to accomplish it. It is a basic premise of these plans that where the machinery and the techniques for assuring consumer representation already exist, they are to be strengthened and that where they do not exist, they will be instituted. Further, these Consumer Representation Plans shall always be subject to improvement when deficiencies are noted or when a new need becomes evident. The Federal Government must provide effective ways to assure consumer representation at the earliest possible stages of the decision-making process.

In the past, the consumer's right to be heard has not been fully recognized by all government agencies. Too often the consumer's voice has been treated lightly or overlooked entirely. In considering public interest policy, I expect government decision-makers to balance the effect government policy will have between producers, distributors, transporters, retailers, labor and the consumers who support the entire system through the purchase of goods and services for personal, household or family use.

This can be accomplished only through participation. The consumer's right to be heard means that the consumer must be involved in the development of programs and participation in decision-making mechanisms that affect his or her interests. It means that the individual consumer with a complaint or a criticism must not only be heard, but that those complaints will be acted upon by the government.

The procedures embodied in the Consumer Representation Plans confirm an essential aspect of the way government must operate, with openness and candor.

I believe that certain other action must be taken at this time. Therefore, I am herewith directing implementation of the following:

1. The Special Assistant to the President for Consumer Affairs shall have continuing responsibility to monitor the extent and effectiveness with which Departments and Agencies carry forth the policies embodied in the Consumer Representation Plans.

2. The Office of Management and Budget shall assess during the annual budget process the effectiveness of the Consumer Representation Plans. With assistance from that office and that of the Departments and Agencies, my Special Assistant for Consumer Affairs shall develop a summary report evaluating the various consumer programs, and this report shall be released to the public.

3. Each Department and Agency shall instruct employees on the purposes and availability of the Representation Plans and shall maintain internal monitoring and evaluation systems. As need arises, the Consumer Representation Plan of that Depart-

ment or Agency shall be strengthened, and any changes in the Plans presented here shall be duly noticed in the FEDERAL REGISTER with an appropriate period allowed for comment.

4. In recognition of the need for consumers to have direct access to appropriate Federal officials, each Department and Agency publishing in the FEDERAL REGISTER a rulemaking, regulation, guideline or other policy matter shall provide in a manner and format determined by the General Services Administration the name, address, and telephone number of the appropriate person responsible for responding to citizen inquiry or comment.

5. To further promote my declaration of consumer education, the Office of Consumer Affairs in the Department of Health, Education and Welfare has established an Interagency Consumer Education and Information Liaison. This group and the Office of Consumer Affairs will provide technical support for the development, dissemination and use of education and information provided by the Federal Government to our schools and communities. It also prevents duplication within that program. To further this work, each Department and Agency shall support and participate to the extent they are charged with a consumer education and information function. Further, I am directing my Special Assistant for Consumer Affairs to coordinate this activity, encourage the participation of independent agencies outside the immediate Executive Branch Departments and Agencies, and provide me with an annual summary of the Federal Government's efforts in the area of consumer education and information.

6. To meet a special need of an important segment of our population, each Department and Agency shall cooperatively make every effort in regional and field offices to have available bilingual personnel, fluent in an appropriate language for the non-English speaking consumers who are regularly in need of contact with that office. Similar efforts shall be made, as appropriate, by headquarters offices in Washington, D.C. When a policy matter significantly affecting these segments of our population in their role as a consumer is proposed, Departments and Agencies shall make extra effort to reach these citizens through multi-lingual notices and all other appropriate means.

7. In order to assure dialogue on specific and general consumer concerns throughout the country, the Federal Executive Boards and the Federal Regional Councils shall establish, as appropriate, programs to help assure Federal liaison with individual consumers, as well as community and State and local consumer organizations. I am directing my Special Assistant for Consumer Affairs, in coordination with the Office of Management and Budget, to develop guidelines for this effort within thirty days.

8. After reviewing the functions of the Office of Consumer Affairs in the Department of Health, Education and Welfare, and the Consumer Information Center in the General Services Administration, I have decided each of their strengths in serving the consumer interest would be enhanced by a more consolidated approach. Therefore, I am directing my staff to seek methods that will strengthen that relationship, and to seek to accommodate the consolidation of staff, resources and functions of the Consumer Information Center with the Office of Consumer Affairs.

I believe these eight actions universally applied across the Executive Branch will enhance the Consumer Representation Plans which follow. The plans are, at this point, policy statements, and I am instructing each Department and Agency, where they have not done so, to implement them at once. In addition, the Departments and Agencies, along with my Special Assistant for Consumer Affairs, shall ensure that there is wide public dissemination of information about the availability of procedures embodied in these Plans. I look forward to increased responsiveness of the Federal

Government to consumer concerns. I also look forward to more American consumers participating in the decision-making process.

Finally, in September, the independent regulatory agencies will be submitting reports to me, in response to my request, on the expected improvements. I have asked these agencies to improve consumer representation as well as to provide improved economic analyses of the consequences of their proposed actions, to rely more on marketplace competition, and to eliminate regulatory delay.

This Memorandum and the accompanying Consumer Representation Plans shall be published in the FEDERAL REGISTER.

Gerald R. Ford

CONSUMER REPRESENTATION PLANS

Memorandum for the President

From:

James T. Lynn, Director, Office of Management and Budget.

Virginia H. Knauer, Special Assistant to the President for Consumer Affairs.

The White House, Washington, September 1, 1976.

In response to your directive, Consumer Representation Plans have been prepared by the 17 Federal Executive Departments and agencies. In fulfilling your charge to us as coordinators we have conducted a three-part program to accomplish that task. First, we published proposed Consumer Representation Plans for comment in the November 26, 1975 issue of the FEDERAL REGISTER; second, we provided more than a 90-day comment period during which we held nine regional conferences and 17 public hearings to discuss agency programs with consumer groups and the public; and last, we have worked with the departments and agencies in their drafting of the final Plans incorporating the substantive concerns and suggestions received from the public during that comment period.

Circulation of the proposed Plans in November was wide-spread and constructive criticism of the Plans was elicited. The National Consumer Advisory Council, Public Citizen, Congressmen, and hundreds of independent consumer and citizen groups cognizant of needed governmental improvements gave their comments. We found that consumer suggestions made to strengthen the Plans centered around the development of regulations, dissemination of information, complaint handling mechanisms, effective consumer representation on advisory committees, and the establishment of primary consumer contacts within agencies. These concerns were recognized in revisions to the proposed Plans of November 26.

Specific actions to be taken as specified in the final Plans include a significant reform on a Federal-wide basis which deserves special note. As part of their Plan, GSA is requiring that all agency proposals in the FEDERAL REGISTER include a clear and easily understandable summary statement preceding each important regulation or notice. To insure that this information is available to a wide readership, GSA is also preparing a new weekly digest of these statements along with a summary calendar of events updated weekly. This vastly improved method of notification of proposed and final Federal actions will make information on regulations available for those people and organizations who want to, but often cannot, participate in government decisions.

In summary, this experience proved to us and the officials from the various Executive Departments and agencies participating that people do take an interest in their government's recognition of consumers, do want to participate in decision-making, and most importantly, when given the opportunity, consumers will give their time and effort to express their needs and concerns. Because of this, program managers and policy makers in the departments and agencies are more sensitive to consumer interests, and the reform needed to accommodate the inclusion of consumers in decision-making is being institutionalized with their full support.

What we are experiencing through this pioneering effort is reassuring as we see top level Federal employees throughout the government dedicated to see these Plans work. With their monitoring and accountability, with congressional oversight, and, most important, with feedback from the American people, this consumer representation initiative which you began will work, and work effectively. It will now enable our citizens to more fully participate in all aspects of their rights in the marketplace of goods and services in our

free-enterprise system. And this will be accomplished on a cost-effective basis, by reordering priorities among ongoing activities and by reallocating existing resources in these departments and agencies.

While we are satisfied with these Plans which will be published in the FEDERAL REGISTER, we also recognize that they are in one sense not final. We recognize the need for Executive Branch departments and agencies to make improvements as they become necessary so as to continually provide consumers the opportunity to participate effectively in the Federal decision-making process.

DEPARTMENT OF THE INTERIOR

Consumer Representation Plan

PRIMARY CONSUMER CONTACT

Special Assistant for Consumer Affairs to the Assistant Secretary—Management, U.S. Department of the Interior, Washington, D.C. 20240 (202) 343–8331

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I. STATEMENT OF PURPOSE

The Consumer Representation Plan has been developed in response to President Ford's request in April of 1975 that the Federal agencies analyze their decision-making process to determine how they could be more responsive to the needs of the American consumer.

The purpose of this Plan is to commit the Department of the Interior (DOI) to improved public participation in decision-making and to identify how this will occur. This purpose is to be achieved primarily within existing organizational structure and resources. Existing decision-making processes will be improved and expanded to serve as the principal vehicles for public participation. The intent of this plan is to make consumer representation in Department decision-making a regular and consistent practice of everyday business.

II. EXECUTIVE SUMMARY

The Consumer Representation Plan commits the Department to improved public participation in decision-making and identifies how this will occur. For the purposes of the plan, consumers are defined as individuals and organizations, public and private, whose interests will be substantially impacted by Departmental decisions and actions.

The objectives of the plan are: (1) Identify programs, policies, decisions, projects or other actions that could have a major impact on the consumer; (2) identify applicable concerned consumer groups and establish effective working relationships; (3) inform consumers in a timely manner of anticipated actions and provide an open and understandable way for consumers to voice concerns and present to the decision-makers their ideas and suggestions; (4) ensure that decision-makers listen and evaluate consumer concerns and ideas; and (5) provide appropriate feedback concerning what was decided and what rationale was used to reach the decision.

Responsibility for overall program development and evaluation is assigned to the Office of the Assistant Secretary-Management where a position of Special Assistant for Consumer Affairs will be established. Major Bureaus and Offices are responsible for development and implementation of a consumer representation program tailored to fit their organization and activities. Field Special Assistants to the Secretary will coordinate implementation at the regional level in conjunction with identified Bureau regional personnel.

Guidelines for consumer representation program development are provided which deal with: Identification of consumer impact programs; identification of consumers; means of informing consumers about proposed actions and obtaining consumer comment before action is taken. Such means include public meetings, resource workshops, advisory committees, environmental impact statements, advance notice of proposed rulemaking or policy development, questionnaires and consumer correspondence. The guidelines also provide for consideration of consumer input and decision feedback.

The Plan details three of the major activities of the Department which cut across the jurisdiction of more than one Bureau, and describes the decision process and the opportunities for public participation of each activity. The activities so described are: Outer Continental Shelf Leasing, National Coal Policy, and the National Environmental Policy Act.

III. OVERVIEW OF DEPARTMENT PROGRAMS

The jurisdiction of the Department of the Interior includes the administration of more than 500 million acres of Federal land, including National Park and National Wildlife Refuge Systems, and trust responsibilities for approximately 50 million acres of land, mostly Indian reservations; the conservation and development of mineral and water resources including those of the Outer Continental Shelf; the promotion of mine health and safety; the conservation, development, and utilization of fish and wildlife resources; the coordination of Federal recreation programs; the preservation and administration of the Nation's scenic and historic areas; the operation of Job Corps Conservation Centers and Youth Conservation Corps Camps and the coordination of manpower and youth training programs; the reclamation of arid lands in the West through irrigation; and the management of hydroelectric power systems. The Department of the Interior is also concerned with the social and economic development of the territories of the United States and in the Trust Territory of the Pacific Islands, and administers programs providing services to Indians and Alaskan Native people.

The Department's operations are under the direction of the heads of ten major Bureaus and several Offices. Although central direction and policy originate in Washington, program operations are generally conducted through the Bureaus' own network of regional and field offices where the consumer-agency interface normally occurs.

IV. DEFINITION OF CONSUMER

For the purpose of this plan, consumers are defined as individuals and organizations, public and private, whose interests will be substantially impacted by Departmental decisions or actions.

V. IMPLEMENTATION OBJECTIVES

Departmental Bureaus and Offices whose decisions, programs and actions have a substantial impact on the consumer will implement this plan by meeting, insofar as possible, the following objectives:

A. Identify programs, policies, decisions, projects or other actions that could have a major impact on the consumer.

B. Identify applicable concerned consumer groups and establish effective working relationships.

C. Inform consumers in a timely manner of anticipated actions and provide an open and understandable way for consumers to voice concerns and present to the decision-makers their ideas and suggestions.

D. Ensure that decision-makers listen and evaluate consumer concerns and ideas.

E. Provide appropriate feedback concerning what was decided and what rationale was used to reach the decision.

VI. RESPONSIBILITY

Responsibility for implementation of this plan will be assigned in several key places throughout the Departmental

structure. These include the Assistant Secretary—Management, Bureaus and Offices, and the Secretary's Field Special Assistants.

A. ASSISTANT SECRETARY—MANAGEMENT

The Assistant Secretary—Management is responsible for overall Department program development and an annual evaluation and report to the Secretary on program effectiveness. A position of Special Assistant for Consumer Affairs will be established in the Office of the Assistant Secretary—Management. The incumbent in this position will:

1. Provide guidance in the development of Bureau and Office consumer representation programs consistent with Departmental guidelines (see section VII).
2. Work with the Office of Public Affairs and the bureau Public Information Officers to develop improved mechanisms for exchange of information with consumers.
3. Ensure responsive and timely action on consumer correspondence directed to the Department.
4. Act as a liaison between the Office of the Secretary and consumer representation contacts in the major Bureaus and Offices.
5. Establish positive relationships with consumer organizations and representatives of groups impacted by decisions of the Department and actively seek their opinions and recommendations on issues of special interest to their constituencies.
6. Make the Secretary and pertinent Bureau and Office heads aware of consumer concerns.

B. BUREAUS AND OFFICES

Each Bureau and Office which makes decisions or administers programs that can substantially impact consumers is responsible for the development and effective implementation of a consumer representation program that will meet the purpose and objectives stated in the Departmental Plan. Each of these programs will be tailored to fit the organization, activities and consumers of the particular Bureau or Office. The Special Assistant for Consumer Affairs will be available for any necessary technical assistance.

Each Bureau and Office will also identify one person to serve as a focal point for developing, implementing, and monitoring its particular consumer representation program and to serve as a national level contact for consumer complaints and suggestions. This individual will be so placed in the organization that he or she can take effective and responsive action to ensure consumer outreach and participation as well as timely responsive action on consumer complaints and suggestions.

Bureaus and Offices with personnel in the field will appoint a consumer contact at the regional level to work in conjunction with the Secretary's Field Special Assistants in implementation of this plan.

C. FIELD SPECIAL ASSISTANTS TO THE SECRETARY

Field Special Assistants (FSA's) will coordinate the handling of regional problems which involve more than one Bureau. At present, the FSA's, as part of their ongoing responsibilities, meet informally with organizations and public interest groups. The FSA's also chair Field Committees composed of regional heads of major Interior Bureaus. These committees, which meet quarterly, will establish as a part of their meeting agendas an exchange of information with regard to consumer concerns. FSA's will communicate this information to the appropriate parties and the Special Assistant for Consumer Affairs.

VII. DEPARTMENT GUIDELINES

Bureaus and Offices will ensure that the purpose and objectives of the Departmental Consumer Representation Plan are clearly communicated to all appropriate decision-making field levels. Insofar as appropriate, Bureaus and Offices will develop consumer representation programs consistent with the following guidelines.

A. IDENTIFICATION OF CONSUMER IMPACT PROGRAMS

Each Bureau and Office will identify the programs, policies and decisions under its purview that have a substantial consumer impact. Programs so identified are subject to the guidelines.

B. IDENTIFICATION OF CONSUMERS

Within the limitations of the Privacy Act and other applicable law and regulations, Bureau and Offices will identify the concerned consumer groups that are affected by their programs or activities, and will maintain lists of individuals who have expressed an interest in such programs and activities, to ensure that they can be contacted. The office involved in making program decisions that impact consumers is often a field office. In such a case, it would be the appropriate office to carry out the identification process. Lists of interested consumer groups and individuals and their addresses should be updated periodically to ensure their accuracy. The lists should be used to contact consumers when appropriate and to inform them of proposed actions. In addition, local and national news media outlets will be identified to provide effective general notification.

C. CONSUMER INFORMATION AND INPUT

Each Bureau and Office will review its practices and procedures for informing consumers about proposed actions that have a substantial consumer impact and for obtaining consumer comment before final decisions are taken. Appropriate steps will be taken to modify or expand these practices and procedures where practicable to improve their efficiency and effectiveness. Among the steps to be considered are the following:

1. *Public Meetings.* This approach will be considered when the magnitude of public interest or the significance of the action warrants giving the public an opportunity to obtain information and express its views in a public meeting environment. Offices conducting such meetings will ensure that Departmental participants are fully informed and trained to conduct this type of session. In order to ensure adequate consumer representation, wherever possible, all public meetings will be (a) held to accommodate the public's time and travel schedules; (b) preceded by a notice to news media covering the area of interest; (c) preceded by letters or notices to affected parties; (d) conducted within fair time limits depending upon the size of the meeting.

2. *Resource Workshops.* Resource workshops are informal, problem-solving sessions where individuals and groups are invited to help gather and analyze data to determine a course of action or reach a solution. Resource workshops are usually held to obtain public assistance on technical data for land and water use planning decisions. They emphasize soliciting information from user groups, interested individuals and technical experts who can add to Interior's knowledge of the area. Workshops will continue to be used, when appropriate, in the development of planning information and planning decisions.

3. *Advisory Committees.* The Department has more than 100 advisory committees composed of some 1,700 members who represent a variety of interests and consumer viewpoints. These committees serve the Department in a valuable advisory capacity. In some instances, committee membership is prescribed by statute. In others, the Secretary has limited appointing authority. Bureaus and Offices will ensure that, where statutes permit, the membership of these committees represent a balanced viewpoint not only in terms of functional and industrial interests but also in terms of the interests of environmentalists, minorities, and the general public, as appropriate.

All advisory committee meetings are subject to the provisions of the Federal Advisory Committee Act, P.L. 92-463. OMB Circular A-63 provides guidance for implementation of the Act.

4. *Environmental Impact Statements.* Many actions of this Department result in impacts on the land and its resources. In such cases, environmental assessments or environmental impact statements (EIS's) are required.

Guidelines promulgated by the Department prescribe the procedures and timing for public notice, public hearings, distribution of draft and final environmental impact statement and announcement of decisions. In order to facilitate better consumer understanding and input, these guidelines also provide that copies of EIS's will be available upon request

without charge to the extent program funding will permit. In those cases where cost of reproduction is substantial, the public may be charged a fee no greater than the incremental cost of reproduction. These guidelines will continue to be followed.

When EIS's are particularly large or complex, Bureaus may, where appropriate, prepare expanded summaries which encapsulate the proposed action, its alternatives, and the environmental impacts of the proposal and alternatives. This document should provide needed information for public understanding and comment.

5. *Advance Notice of Rulemaking or Policy Development.* Wherever a Bureau or Office is faced with a problem that is novel or controversial and the agency action or inaction will have a substantial impact on the consumer, it should present the problem to the public and obtain public comment before the agency develops a specific proposal for consideration. The advance notice is placed in the Federal Register and describes a situation or problem to be dealt with, including attempted solutions. The public is then asked to comment on the problem and offer possible solutions supported by factual information which will assist in the development of a proposed rule or policy. Bureaus and Offices shall use this process as appropriate.

6. *Questionnaires and Surveys.* Questionnaires and surveys sent to interested persons are used to develop an idea of the specific resource conflicts and various types of solutions involved in issues affecting the general public. They are also used to solicit public expression of preference with regard to policy and goals. The Department will continue this practice and will request written, supplementary comments where appropriate. The Assistant Secretary-Management will be consulted before questionnaires are sent to the public. Appropriate clearance from the Office of Management and Budget must be obtained before this input method is utilized to ensure that a valid approach is used and to preclude an unnecessary burden on the public.

7. *Consumer Correspondence.* Correspondence received directly from consumers or through their Congressmen is often a signal of needed consumer input. Managers must be sensitive to recognize these signals and provide the opportunity for consumer participation.

Bureaus and Offices will ensure responsive and timely action on consumer complaints. If a reply cannot be made promptly, a letter of acknowledgement should be sent explaining briefly the reason for the delay and stating when a response can be expected.

D. CONSIDERATION OF CONSUMER INPUT

As part of their Consumer Representation program, Bureaus and Offices will establish decision-making procedures which ensure that information obtained from consumers in response to proposed actions is given an objective and considered evaluation before decisions are reached.

E. DECISION FEEDBACK

Effective public participation in Departmental decision-making requires more than informing consumers of proposed actions and soliciting and considering their views. Advising the interested public of the final decision is a necessary, integral part of the entire process.

Appropriate communication channels (letters and news releases, as well as the FEDERAL REGISTER) will be used to inform the interested and affected consumer of decisions reached. Where opposing views were evident, the rationale for the decision will be given. Particular, but not exclusive, attention will be given to inform those consumers who participated in the information gathering and review stages.

VIII. MAJOR DECISION-MAKING PROCESSES

Outer Continental Shelf Leasing, implementation of the National Coal Policy, and enforcement of the provisions of the National Environmental Policy Act are representative of major activities in the Department which cut across the jurisdictions of several Bureaus. These activities involve major issues confronting the Department today, and their importance is not likely to diminish in the near future. Indeed, they have aroused the keen interest and concern of the general public as well as the involved Indian tribes, States, and the Federal Government. Each activity provides an opportunity for public participation which is described, in turn, below.

A. OUTER CONTINENTAL SHELF LEASING

The Department of the Interior is responsible for managing and developing the mineral resources of the submerged lands of the Outer Continental Shelf (OCS) pursuant to the OCS Lands Act of 1953. The program is handled jointly by the U.S. Geological Survey and the Bureau of Land Management. The Outer Continental Shelf Advisory System, which includes the OCS Advisory Board (policy) and the OCS Environmental Studies Committee (technical), has been established to advise the Secretary of the Interior and other officials of the Department relative to all aspects of exploration and development of OCS resources, including the Environmental Studies Program pertaining to potential OCS leasing areas. Following is a summary of stages in the OCS oil and gas lease sale decision process which involve public participation.

Stage	Time before decision (months)	Public participation
1. Call for nominations	12 to 24	Federal Register notice requesting general public, including industry and States to suggest specific tracts which should or should not be considered for sale.
2. Tentative tract selection	13 to 15	States are consulted after tentative selection and again prior to a final decision on the lease sale proposal
3. EIS process	Approximately 12.	Includes detailed environmental assessment of each tract. States are requested to participate in preparation of draft EIS. The draft EIS is made available to the public. Public hearings are held. Written comments are considered. A final EIS is prepared and made available to the public before a final decision.
4. Decision and notice of sale.	1 to 2	Governors of affected States are consulted prior to a decision on the lease sale proposal.
5. Lease development plan (approved by U.S. Geological Survey).		Lessee must advise affected States of planned onshore and offshore operations. States are given sixty (60) days to review and comment prior to action by the Geological Survey on a request for approval.
Related procedures: Development of OCS operating orders.		Rulemaking process: Public comments and special consultation with affected State.

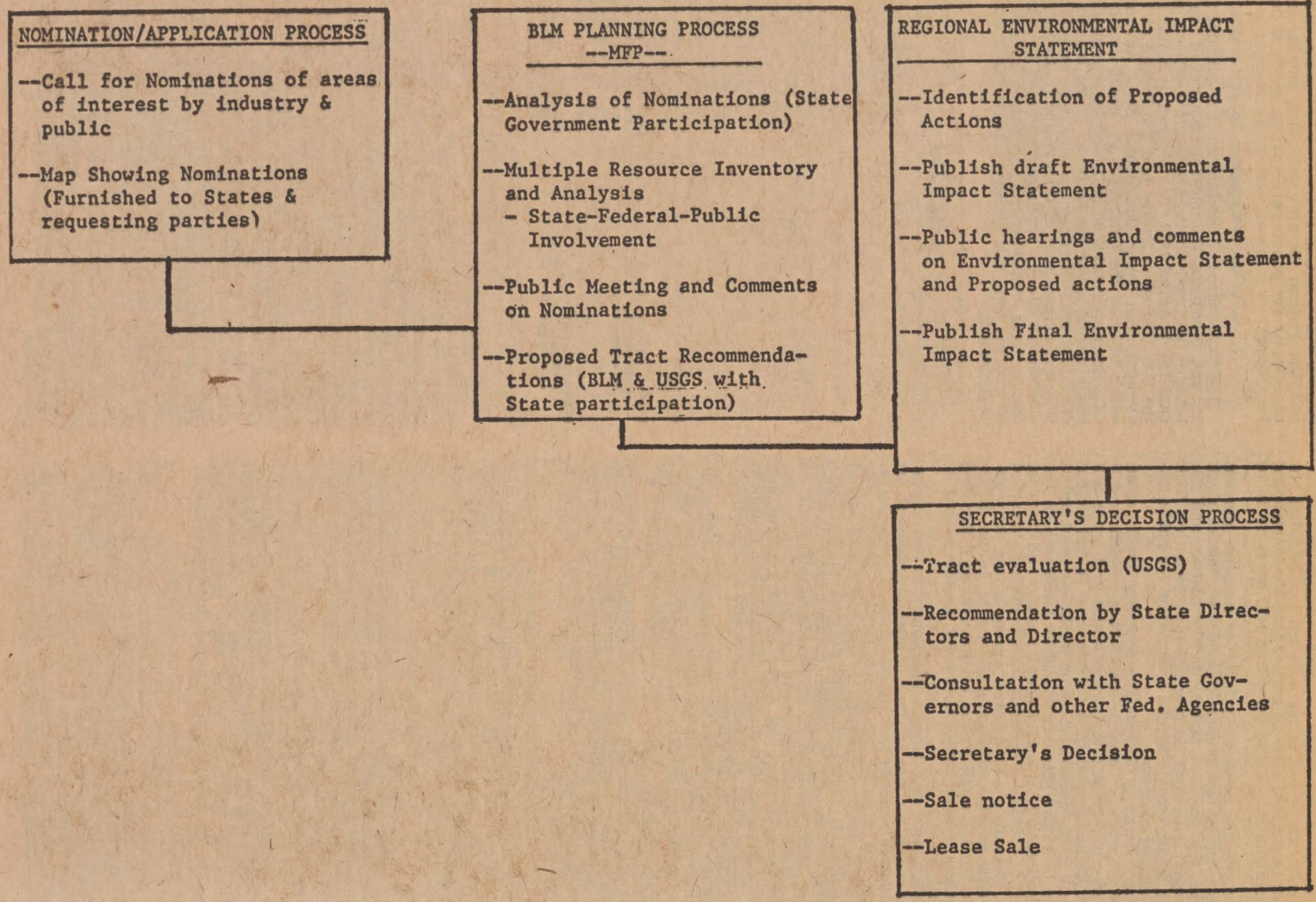
B. NATIONAL COAL POLICY

The vast Federal coal resources of the American West constitute a vital source of energy for a Nation too heavily dependent on foreign sources of petroleum. These coal deposits must be developed in a sound, rational and environmentally prudent manner so that coal can take its rightful place in the Nation's energy matrix. As manager of this public resource, the Department of the Interior is moving to establish a firm and realistic coal policy. The most important element of a more rational Federal coal policy is the implementation of a new coal leasing process. To this end, Secretary of the Interior Thomas S. Kleppe announced his decision in January 1976 to adopt the Energy Minerals Activity Recommendation System (EMARS), which was developed by the Bureau of Land Management.

On March 16, 1976, proposed procedures for competitive coal leasing were announced in the FEDERAL REGISTER, and on June 1, 1976, final rulemaking was published (41 FR 22051). The regulation explains the steps the Department will take through the EMARS process before it issues a competitive coal lease. A part of that system is a "call for nominations of areas of interest," which is a major new vehicle enabling the public to inform the Department in advance where coal leasing is considered desirable and where it is not. In those areas where a regional EIS must be prepared, a minimum period of 15 months will be necessary from the date of the call for nominations to the Secretary's decision.

The chart below details the steps of the EMARS coal leasing process.

EMARS COAL LEASING PROCESS

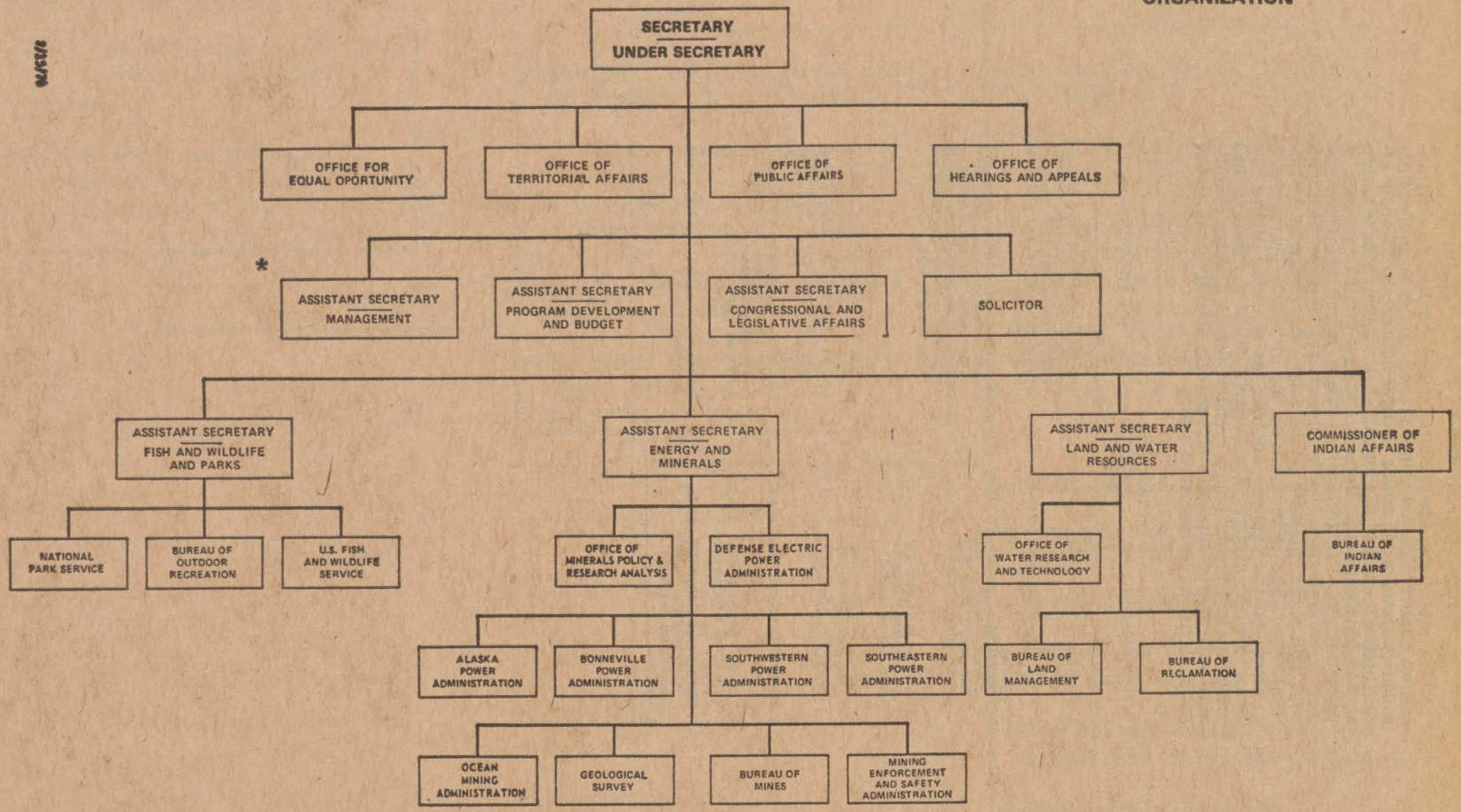


C. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

NEPA establishes the Federal policy relating to environmental quality. The Act requires each agency to prepare detailed statements for major Federal actions significantly affecting the quality of the human environment. This is known as the environmental impact statement (EIS) process. A written report of environmental effects, including an environmental analysis of available alternatives, must be filed with CEQ and made available to the public for review and comment. The public, in turn, has an opportunity to evaluate and comment on the agency's analysis. As guardian of the Nation's natural resources, the Department of the Interior has programs and makes policy decisions which require compliance with NEPA. Interior's EIS process actively involves the public in the stages described below.

Major steps in process	Time before decision (months)	Public involvement
1. Proposed action identified.	6 to 24	May identify action or need for EIS through application for benefit, strong interest, litigation, etc.
2. Public announcement that study will be made.	5 to 18	General practice but may not occur in all cases.
3. Preparation of environmental study and assessment, draft EIS or negative determination.	5 to 18	No requirement. BLM and NPS hold public meetings at local level. BOR holds public meetings on rivers and trails studies. Others may hold meetings or seek comments on individual case basis.
(Following steps omitted if negative determination is made on need for EIS)		
4. Public announcement that draft EIS is available for public comment.	3 to 6†	Required announcement. Public comment solicited. Normal comment period is 45 days. Public meeting or hearings are not mandatory but, in practice, are usually held.
5. Preparation of final EIS	1 to 6	Members of public who commented may be contacted for additional views or information.
6. Public announcement that final EIS is available.	1 to 2	Required announcement.
7. Waiting period after EIS is published, before action can be taken.	30 days	Comments accepted but not solicited.
8. Decision		

Department of the Interior
ORGANIZATION



* Primary Consumer Contact

APPENDIX A

APPENDIX B.—DEPARTMENT OF THE INTERIOR CONSUMER REPRESENTATION CONTACTS

Bureau or Office Name	*Individual*
Department of the Interior (in general), 18th and C Sts. NW., Washington, D.C. 20240.	Mrs. Jean Hawkins, Special Assistant to the Assistant Secretary—Management, (202) 343–8331.
Assistant Secretary—Program Development and Budget, 18th and C Sts. NW., Washington, D.C. 20240.	David Reynolds, Program Analyst, Office of Policy Analysis, (202) 343–8875.
Assistant Secretary—Land and Water Resources, 18th and C Sts. NW., Washington, D.C. 20240.	Maurice Nugent, Staff Assistant, (202) 343–2920.
Bureau of Indian Affairs, 1951 Constitution Ave. NW., Washington, D.C. 20245.	Ms. Phyllis J. Cross, Intergovernmental Relations Officer, (202) 343–8297.
Bureau of Land Management, 18th and C Sts. NW., Washington, D.C. 20240.	Daniel Alfieri, Chief, Office of Public Affairs, (202) 343–4151.
Bureau of Mines, 2401 E St. NW., Washington, D.C. 20241.	Alfred Weiss, Assistant Director, Program Development and Budget, (202) 634–1340.
Bureau of Outdoor Recreation, 18th and C Sts. NW., Washington, D.C. 20240.	Douglas Baldwin, Chief, Office of Communications, (202) 343–5726.
Bureau of Reclamation, 18th and C Sts. NW., Washington, D.C. 20240.	Jim Hart, Chief, Office of Public Affairs, (202) 343–4662.
Fish and Wildlife Service, 18th D.C. 20240.	John Mattoon, Assistant Director, Public Affairs, (202) 343–5634.
U.S. Geological Survey, The Na- 22092.	Tom Kugel, Branch of Management Analysis, (703) 860–7211.
Mining Enforcement and Safety Administration, 4105 Wilson Blvd., Arlington, Va. 22203.	William A. Yost, Chief, Division of Management Research and Planning (703) 235–8344.
National Park Service, 18th and C Sts., NW., Washington, D.C. 20240.	John Cook, Associate Director, Park System Management (202) 343–5731.
Alaska Power Administration, P.O. Box 50, Juneau, Alaska 99802.	E. Robert Haag, Chief, Division of Administrative Services (907) 586–7405.
Bonneville Power Administration, 18th and C Sts. NW., Washington, D.C. 20240.	William H. Clagett, Assistant Administrator (202) 343–6955.
Southeastern Power Administration, Samuel Elbert Bldg., Elberton, Ga. 30635.	Harry F. Wright, Chief, Division of Fiscal Operations (404) 283–3261.
Southwestern Power Administration, P.O. Drawer 1619, Tulsa, Okla. 74101.	Jack K. Hatfield, Director, Planning Staff (918) 581–7426.
Office of Water Research and Technology, 18th and C Sts., NW., Washington, D.C. 20240.	George O. Cassaday, Staff Assistant (202) 343–4608.

REGIONAL CONTACTS—SPECIAL ASSISTANTS (FIELD REPRESENTATIVES) TO THE SECRETARY

Roger Sumner Babb, Special Assistant to the Secretary—Northeast Region, U.S. Department of the Interior, John F. Kennedy Federal Building, Room 2003N—Government Center, Boston, Massachusetts 02203 (617) 223–5104.

June Whelan, Special Assistant to the Secretary—Southeast Region, U.S. Department of the Interior, Suite 410, Financial Services Building, 148 Cain Street, N.E., Atlanta, Georgia 30303 (404) 526–4524.

Madonna McGrath, Acting Special Assistant to the Secretary—North Central Region, U.S. Department of the Interior, 230 S. Dearborn Street, Room 3249, Chicago, Illinois 60604 (312) 353–8015.

Willard E. Lewis, Jr., Special Assistant to the Secretary—Southwest Region, U.S. Department of the Interior, Federal Building, Room 4030, 517 Gold Street, S.W., Albuquerque, New Mexico 87102 (505) 766–2838.

William L. Rogers, Special Assistant to the Secretary—Missouri Basin Region, U.S. Department of the Interior, Denver Federal Center, Building 67, Room 688, Denver, Colorado 80225 (303) 234–3120.

Webster Otis, Special Assistant to the Secretary—Pacific Southwest Region, U.S. Department of the Interior, 450 Golden Gate Avenue, Box 36098, San Francisco, California 94102 (415) 556–8200.

Charles Hoyt, Special Assistant to the Secretary—Pacific Northwest Region, U.S. Department of the Interior, Bonneville Bldg., Room 702, 1002 N.E. Holladay Street, Box 3621, Portland, Oregon 97208 (503) 234–3361.

Arthur Kennedy, Special Assistant to the Secretary—Alaska, Post Office Box 120, Anchorage, Alaska 99501 (907) 265–5278.

APPENDIX C.—PUBLIC COMMENT ON PROPOSED CONSUMER REPRESENTATION PLAN (JANUARY THROUGH MAY 1976)

This revised Consumer Representation Plan of the Department of the Interior reflects the oral comments and suggestions received during the White House Consumer Representation Plan Conferences held in nine cities throughout the country during January 1976, those received in writing during the comment period which closed March 1, 1976, and testimony presented at a hearing held at the Department of the Interior on February 26, 1976.

Several organizations, representing consumers and other constituencies of the Department, were invited to review this revised Plan and participate in an informal discussion meeting at the Department on May 25, 1976. On May 26, 1976, a representative of the Department met with the White House Consumer Advisory Council to review the contents of the Plan, answer questions, and hear their comments.

Two specific suggestions received in writing have been incorporated into the Plan. They are: (1) review of the makeup of advisory committees to ensure that membership is balanced to reflect not only functional and industrial interests but environmentalists, minorities, and the general public as well; and (2) use of Advanced Notice of Proposed Rulemaking or Policy Development for major regulations and policies to be promulgated by the Department which could impact consumers to a substantial degree.

Other written comments suggested such mechanisms as toll-free telephone service for consumer complaints and the use of Social Security information to develop mailing lists of poverty level consumers. It was determined that the cost benefit to be derived from the provision of toll-free telephone service would not justify this substantial expenditure of funds. It was also felt that use of Social Security information to develop mailing lists of poverty level citizens would violate the privacy of those individuals.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Consumer Representation Plan

PRIMARY CONSUMER CONTACT

Assistant to the Administrator (Consumer Representation) Office of the Administrator, Energy Research and Development Administration, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545 (202) 376–4015.

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I. STATEMENT OF PURPOSE

The purpose of the Consumer Representation Plan of the Energy Research and Development Administration (ERDA) is to insure to the greatest extent possible that consumers as defined in this plan have the opportunity to comment on proposed ERDA regulations, policies, and major program actions covered by this plan before the agency reaches a decision, and that these comments are considered by ERDA in the agency's decisionmaking process. This plan describes ERDA's intent to provide meaningful information to the consuming public; solicit consumer opinion; and insure that the agency is responsive to consumer comments. Through these means, the Consumer Representation Plan is designed to make it easier for the consuming public to focus its attention on issues of concern within ERDA, and make its views regarding these issues known to the agency.

II. EXECUTIVE SUMMARY

Consumer representation provides an important means for ERDA to ascertain views and concerns regarding the ultimate acceptability of energy technologies while the technologies are still in the research and development stage. Information about ultimate acceptability is an important consideration which influences the development of energy technologies.

This Consumer Representation Plan focuses on (1) individuals who do or will consume directly for personal or household purposes energy that has been produced or conserved by means of technologies developed by or with the support of ERDA; and (2) non-profit organizations (a) created specifically for consumer advocacy or protection; or (b) dedicated to representing the needs of specific population groups; or (3) otherwise dedicated to preserving and enhancing the quality of life.

ERDA has and continues to develop a number of methods by which consumers can be represented. Public meetings provide a forum for communication between ERDA top management and the consuming public. ERDA is expanding its information services program, with dissemination of literature on energy technology subjects to individuals and groups. Also within the information services program, cooperative activities are planned with organizations representing a cross-section of the general public, with the goals of conducting regional and local seminars, developing information packages for the membership, and offering special projects for use by the organizations.

ERDA's comprehensive procedures for environmental review of significant major proposals for administrative and legislative actions also provide avenues for substantial public involvement. In addition, ERDA's procedures for advanced notice of rulemaking provide means for public comment on proposed agency rules and regulations.

With regard to correspondence, consumers are urged to contact directly officials responsible for the ERDA energy research, development and demonstration (RD&D) programs in which they are interested, and a list of such contact points is provided in appendices to this plan. However, in the event that correspondence and complaints may not have received appropriate response, ERDA is designating an Assistant in the Office of the Administrator to act as a point of appeal for consumers. In addition, for internal ERDA implementation purposes specific plans to implement this Consumer Representation Plan will be prepared by the programs and offices listed in Appendix A.

III. PRIMARY ERDA ORGANIZATIONAL UNITS INVOLVED

Established by Pub. L. 93–438, the Energy Research and Development Administration is mandated

> to bring together and direct Federal activities relating to research and development on the various sources of energy, to increase the efficiency and reliability in the use of energy, and to carry out the performance of other functions, including . . . general basic research activities.

While exercising central responsibility for management of energy research, development, and demonstration, the Administrator of ERDA is charged by statute with responsibility to disseminate information and is authorized to establish procedures for periodic consultation with representatives of science, industry, environmental organizations, consumers, and others who have information that could contribute to the direction and evaluation of the agency's program.

These responsibilities and authorities have been recognized explicity by ERDA in *A National Plan for Energy Research, Development and Demonstration: Creating Energy Choices for the Future* (ERDA–48) and the 1976 update of the document (ERDA 76–1).

This Consumer Representation Plan applies to all ERDA RD&D programs except for actions substantially involving classified matters; contract, grant and agreement review and selection; personnel actions, including security investigations; and other actions substantially involving information that cannot, by law, be disclosed. ERDA programs to which this Plan applies are listed below:

A. FOSSIL ENERGY DEVELOPMENT

Coal.
Petroleum and Natural Gas.
In-Situ Technology.

B. SOLAR, GEOTHERMAL AND ADVANCED ENERGY SYSTEMS DEVELOPMENT

Solar Energy Development.
Geothermal Energy Development.
Physical Research.
Magnetic Fusion Power Research and Development.

C. CONSERVATION RESEARCH AND DEVELOPMENT

Transportation Energy Conservation.
Electrical Energy Systems.
Buildings and Community Systems.
Industrial Energy Conservation.

Conservation Research and Technology.
Energy Storage Systems.

D. NUCLEAR ENERGY DEVELOPMENT

Liquid Metal Fast Breeder Reactor Program.
Other Reactor Concepts and Technology:
  Gas cooled reactors.
  Light water reactor technology.
  Nuclear applications.
Uranium Enrichment.
Fuel Cycle Research and Development:
  Waste management.
  Reprocessing.
  Resource assessment.

E. NATIONAL SECURITY

Laser Fusion.
Nuclear Materials Safeguards.

F. ENVIRONMENTAL AND SAFETY RESEARCH

Biomedical and Environmental Research.
Safety, Standards and Compliance.
Environmental Control Technology.
Technology Overview.

IV. ERDA Consumer Representation Plan

Consumer representation is an important component of ERDA's mission since consumers ultimately will use the energy generated from or conserved by the agency's technological products. These technologies, therefore, must be socially, environmentally, economically, and institutionally acceptable. Consumer representation provides an important means for ascertaining views and concerns regarding the ultimate acceptability of energy technologies while the technologies are still in the research and development stage.

Information from consumers will be considered in formulating and evaluating ERDA programs. Consumer representation will involve two-way communication between consumers and ERDA decisionmakers, and ERDA will strive to develop and implement effective representation methods. In order to be represented more effectively, ERDA hopes that consumers will take advantage of the opportunities afforded, making their ideas and concerns known to the agency.

A. DEFINITION OF CONSUMER

Since ERDA's mission is to research and develop energy technologies and since energy is a universally used commodity, there are many diverse types of consumers of ERDA's products. However, this plan focuses only on (1) individuals who do or will consume directly for personal or household purposes energy that has been produced or conserved by means of technologies developed by or with the support of ERDA; and (2) non-profit organizations (a) created specifically for consumer advocacy or protection; or (b) dedicated to representing the needs of specific population groups; or (c) otherwise dedicated to preserving and enhancing the quality of life.

B. CONSUMER CONTACT POINTS

Consumers should contact directly the ERDA decisionmakers whose programs are of interest. (Appendix A contains the addresses of these persons.) ERDA Operations Offices also can be used as convenient contact points for ERDA consumers throughout the United States. (Appendix B lists the addresses of these offices.)

In addition to these program and regional contact points, ERDA recognizes the need for agency-wide coordination of implementation of the Consumer Representation Plan. Accordingly, ERDA will announce in the near future the appointment of an Assistant to the Administrator who will be responsible for coordinating and monitoring the implementation of the Consumer Representation Plan and evaluating its progress. The Assistant will report his findings to the Administrator, who has ultimate responsibility for the plan. The Assistant also will act as a point of appeal for consumer complaints that may not have been resolved in an appropriate fashion, and the Assistant should be contacted in such cases. (Appendix A provides the address of the Assistant to the Administrator.)

C. CONSUMER REPRESENTATION MECHANISMS

1. *Specific Plans for Implementing the Consumer Representation Plan.* For internal ERDA implementation purposes, specific plans for implementing this Consumer Representation Plan will be prepared by the programs and offices listed in Appendix A. The specific plans will describe major decision points, issues and activities for which input is sought; affected consumers; and planned interaction mechanisms. It should be noted that although consumers will be specified in order to provide a focus for implementing the specific plans, participation by all interested consumers will be welcomed.

2. *Public Meetings, Workshops and Hearings.* One of ERDA's statutory duties is to prepare annually *A National Plan for Energy Research, Development and Demonstration: Creating Energy Choices for the Future.* The purpose of the National Energy RD&D Plan, among other things, is to establish energy RD&D policy for the Federal government, discuss priorities for energy research and development, and summarize the status of RD&D programs throughout the Federal government.

ERDA has established a series of public meetings throughout the Nation in order for all interested persons to comment on the National Energy RD&D Plan. These meetings have been well attended, and provide a forum for communication between ERDA top management and the public. Meetings have been held in Atlanta, Seattle, Denver, and Chicago and in the remainder of 1976 are scheduled for San Francisco, and Boston. ERDA expects to continue these meetings in the years to come. Other meetings and workshops are held by specific ERDA programs. As required by statute, the U.S. Council on Environmental Quality holds annual hearings on the adequacy of attention to energy conservation methods and environmental protection.

3. *Information Services.* ERDA is initiating an improved program for information dissemination designed to inform consumers of ERDA programs and solicit their views. There are several major areas where information services are being improved. ERDA is preparing and disseminating publications on energy technology subjects. This information is mailed periodically to individuals and groups and is available on request. Another major focus of this activity is to communicate with larger segments of the general population through the multiplier effect of organized public groups. Cooperative programs will be developed with organizations representing various cross-sections of the general public, including civic organizations, union groups, labor and management organizations and environmental groups. Priority activities that are now being investigated using these groups to help increase the public's understanding of energy technology options include: (1) Conducting regional and local seminars with organizational leaders; (2) preparing information packages for distribution to the membership; and (3) offering special projects for use by the local chapters.

Another focus is on new programs using the Nation's educational systems as important means of developing public understanding of national energy resource and technology options. The next year's educational program priority is to develop new classroom materials for elementary and secondary schools. This effort will include career opportunity materials for vocational and technical high school students.

ERDA is developing expanded programs for science museum demonstrations and exhibits. ERDA also is planning to produce approximately 40 public service announcements and news features for television and radio audiences. These presentations will inform the public of specific ERDA RD&D activities as the activities reach important stages of development. The public will be invited to write for further information in their particular areas of interest.

4. *Environmental Impact Statements.* ERDA's comprehensive procedures for environmental review provide for substantial public involvement. Proposed administrative and legislative actions and policy developments are carefully analyzed to determine the potential effects on the quality of the human environment. If these effects are determined to be significant and an environmental impact statement is to be prepared, ERDA publishes in the Federal Register and mails to all known interested persons and organizations a notice of intent to prepare the statement. This notice, which invites suggestions from the public, describes the proposed action in enough detail to allow meaningful pubic input. ERDA considers the responses received in preparing the draft environmental impact statement, which discusses in detail the economic, social and environmental issues relevant to decisions on the proposed action. The availability of this statement is announced in the Federal Register and through press releases. The notice of availability of the document also is sent to all known interested persons and organizations. Copies of the

document are made available for review and comment to those known to have a specific interest, and to all who request copies. The period allowed for comments is at least 45 days and is flexible with more time allowed for review of voluminous and controversial statements. When determined by the Assistant Administrator for Environment and Safety to be in the public interest, ERDA holds a public hearing on the statement to obtain additional public input. All comments received on the draft are carefully considered in the preparation of the final statement which discusses the public concerns and responds to all comments received. The final environmental impact statement is made publically available and becomes the environmental input to agency decisionmaking on the proposed action.

5. *Consumer Correspondence and Complaint Handling.* Consumers are encouraged to make their views known through correspondence to appropriate ERDA officials since response to consumers will be handled within the agency on a program by program basis. For general ERDA publications and information, the Office of Public Affairs at the Washington, D.C., headquarters or at the ERDA Operations Offices listed in Appendix B should be contacted.

Consumer complaints should be submitted directly to appropriate ERDA program officials (listed in Appendix A, section 1) for timely response. For complaints that may not have been handled in a responsive manner, consumers should contact the previously mentioned Assistant to the Administrator for assistance, including in the correspondence a history of the unresponsive handling to date. As part of his monitoring duties, the Assistant to the Administrator periodically will review complaint handling procedures and recommend more effective ones to the Administrator as necessary.

6. *Advanced Notice of Rulemaking.* In accordance with the provisions of the Administrative Procedures Act, ERDA will give advance notice of proposed rulemaking or policy development in the FEDERAL REGISTER to afford consumers an opportunity to participate in the development of the rule or policy. The period allowed for public comment on proposed rulemaking will be flexible depending on the substance of each proposed regulation. A highly controversial notice of proposed rulemaking, for example, may require a comment period longer than one without significant policy implications. In drafting proposed regulations, ERDA will attempt to avoid using highly technical phrases and jargon in order to make its messages more readable to the public.

7. *Advisory Committees.* ERDA has a number of advisory committees comprised of individuals drawn from many segments of the public including scientific, industrial, and environmental groups. Overall, these committees act as vehicles for advising the agency on policy matters. Advisory committee meetings are announced in advance in the FEDERAL REGISTER. In addition, ERDA currently is conducting a comprehensive review of the agency's advisory committee structure. Comments that have been received regarding consumer representation on ERDA's advisory committees will be considered fully in the review.

APPENDIX A.—CONSUMER CONTACT POINTS

1. For requests, comments and complaints regarding specific ERDA energy research and development programs, contact as appropriate the persons listed below:

Mr. Austin N. Heller, Assistant Administrator for Conservation, Energy Research and Development Adminitsration, Washington, D.C. 20545.

Dr. James L. Liverman, Assistant Administrator for Environment and Safety, Energy Research and Development Administration, Washington, D.C. 20545.

Dr. Philip C. White, Assistant Administrator for Fossil Energy, Energy Research and Development Administration, Washington, D.C. 20545.

General Alfred D. Starbird, Assistant Administrator for National Security, Energy Research and Development Administration, Washington, D.C. 20545.

Dr. Richard W. Roberts, Assistant Administrator for Nuclear Energy, Energy Research and Development Administration, Washington, D.C. 20545.

Dr. Robert L. Hirsch, Assistant Administrator for Solar, Geothermal and Advanced Energy Systems, Energy Research and Development Administration, Washington, D.C. 20545.

2. For comments regarding the policies and contents of *A National Plan for Energy Research, Development and Demonstration: Creating Energy Choices for the Future,* contact:

Mr. Roger W. A. LeGassie, Assistant Administrator for Planning, Analysis, and Evaluation, Energy Research and Development Administration, Washington, D.C. 20545.

3. For copies of the ERDA Consumer Representation Plan, information about public meetings on the National Energy RD&D Plan and other items discussed in Section (IV(C)(3))—"Information Services," contact:

Mr. John W. King, Director, Office of Public Affairs, Energy Research and Development Administration, Washington, D.C. 20545.

4. For comments specifically relating to this Consumer Representation Plan, and for a point of appeal for requests, comments and complaints that may not have been appropriately answered, contact:

Assistant to the Administrator (Consumer Representation), Office of the Administrator, Energy Research and Development Administration, Washington, D.C. 20545.

In all correspondence regarding matters that may not have been appropriately handled, please include a description of the unresponsive handling to date.

APPENDIX B.—ERDA OPERATIONS OFFICES

Herman E. Roser, Manager, U.S. ERDA, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, New Mexico 87115.

Robert H. Bauer, Manager, U.S. ERDA, Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois 60439.

Dr. Charles E. Williams, Manager, U.S. ERDA, Idaho Operations Office, 550 2nd Street, Idaho Falls, Idaho 83401.

Mahlon E. Gates, Manager, U.S. ERDA, Nevada Operations Office, P.O. Box 14100, Las Vegas, Nevada 98114.

Robert J. Hart, Manager, U.S. ERDA, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, Tennessee 37830.

Alex G. Fremling, Manager, U.S. ERDA, Richland Operations Office, P.O. Box 550, Richland, Washington 99352.

Robert D. Thorne, Manager, U.S. ERDA, San Francisco Operations Office, 1333 Broadway, Wells Fargo Building, Oakland, California 94616.

N. Stetson, Manager, U.S. ERDA, Savannah River Operations Office, P.O. Box "A", Aiken, South Carolina 29801.

APPENDIX C.—COMMENTS ON THE PRELIMINARY ERDA CONSUMER REPRESENTATION PLAN

ERDA participated in a number of activities designed to obtain consumer comments on the Executive Department and Agency Consumer Representation Plan. The review process included publishing a preliminary ERDA Consumer Representation Plan in the FEDERAL REGISTER on November 26, 1975; distributing reprints of the plan to more than 20,000 individuals and groups participating in nine regional White House conferences and a public hearing in Washington, D.C.; and receiving written public comments during the required 95-day review period (November 26, 1975–March 1, 1976).

Many of the written and oral comments pertained to improving or initiating consumer communication techniques, and these have been factored into the final version of ERDA's plan. For instance, suggestions that the agency "provide more education tools, newsletters, and publications to consumers" and "conduct consumer representation activities at local-regional levels," are reflected in the plan, and the use of consumer research techniques such as questionnaires and opinion sampling is being considered.

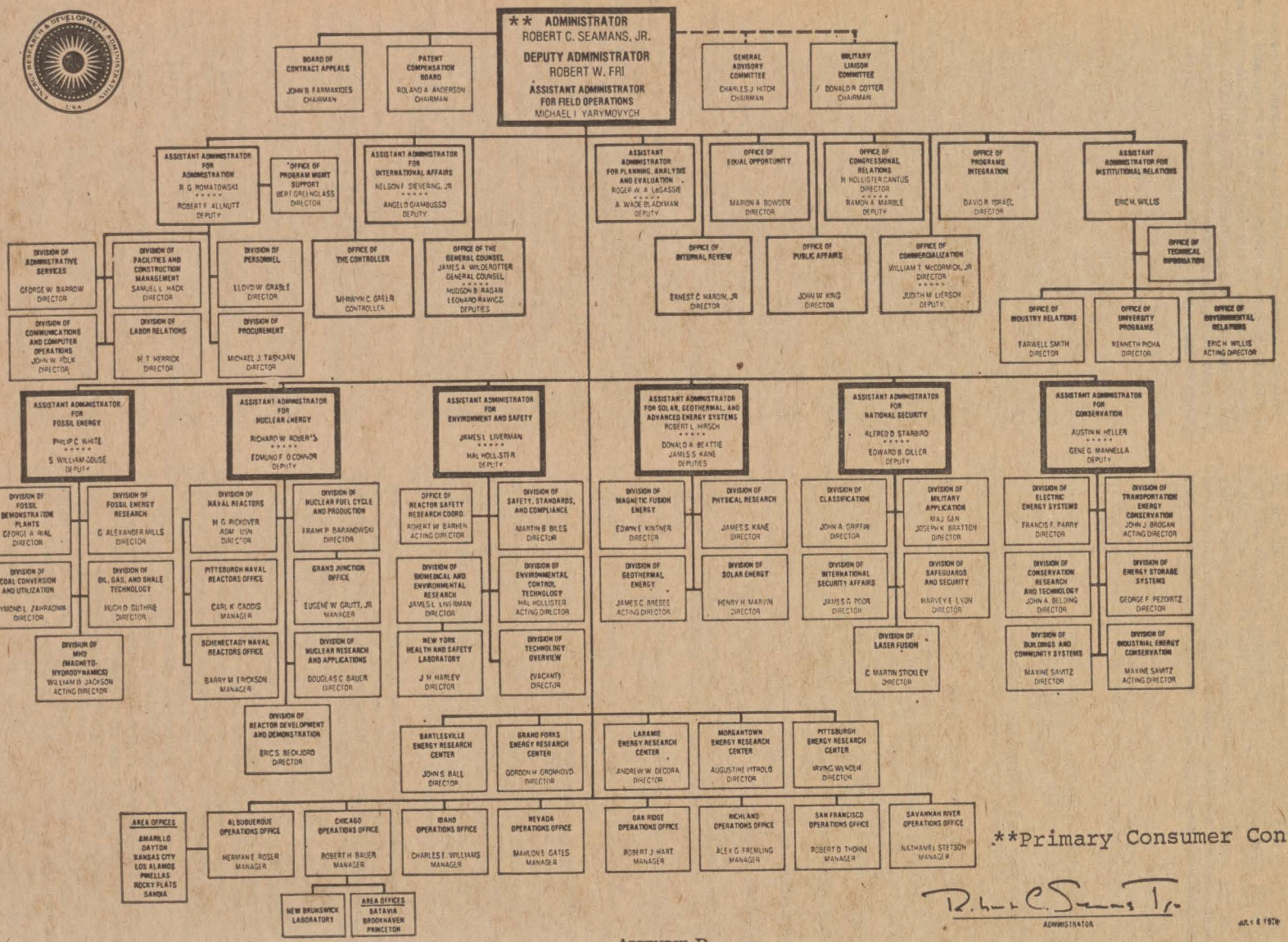
Other comments pertained to changing the composition of ERDA advisory committees. It was suggested that representatives of low and middle income residential consumers be added; a consumer advisory committee be established as well as committees for solar, geothermal and conservation programs; a procedure be established to appeal closed advisory commitee sessions and at a minimum that the agenda of such meetings be published; and a more open and systematic solicitation process for advisory committee members be established. These suggestions are being considered actively as a part of a comprehensive review of ERDA's advisory committee structure which now is underway. Suggestions were also made regarding establishing within ERDA an Office of Consumer Affairs and a Consumer Complaint Office. After careful consideration, ERDA concluded that these suggestions would have the disadvantage of tending to isolate consumer representation from agency research and development programs. Therefore, ERDA has decided to delegate responsibility for consumer representation activities directly to key program managers. This approach is intended to provide consumers with direct contact to decisionmakers and pro-

grams of interest while also providing a point of appeal in the Office of the Administrator for complaints that may not have been satisfactorily handled at the program level.

Sponsoring an annual public interert conference attended by key decisionmakers also was suggested. ERDA feels that the ongoing regional meetings on *A National Plan for Energy Research and Development: Creating Energy Choices for the Future* and other activities of the research and development programs serve many of the same objectives as would be served by such a public interest conference. However, this suggestion will be assessed thoroughly by the Assistant to the Administrator responsible for evaluating the progress of the Consumer Representation Plan, as will be a suggestion regarding establishing a public advisor within the agency.

Finally, several individuals and groups expressed disbelief in in ERDA's Consumer Representation Plan, and "credibility" was a frequent theme in the nine regional conferences as well. ERDA is hopeful that the implementation of the efforts described in this plan will help demonstrate ERDA's commitment to an effective consumer representation process.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION



**Primary Consumer Contact

R. C. Seamans Jr.
ADMINISTRATOR

SEP 6 1976

APPENDIX D

ENVIRONMENTAL PROTECTION AGENCY

Consumer Representation Plan

PRIMARY CONSUMER CONTACT

Special Assistant for Consumer Affairs, U.S. Environmental Protection Agency, 401 M Street, S.W. (Rm. A–101), Washington, D.C. 20460 (202) 755–0425.

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I. STATEMENT OF PURPOSE

This plan provides a mechanism for facilitating consumer participation in both general policy formulation and the development of individual standards and regulations and for giving EPA a better understanding of the consumer's viewpoint. The purpose of this plan is to ensure to the greatest extent possible that persons who are affected by any major sponsored legislation, regulation, policy, decision or program action are provided with sufficient information to understand the Agency's intent, and are given the opportunity to have their views on the subject considered in the Agency's decision-making process.

II. EXECUTIVE SUMMARY

The Environmental Protection Agency Consumer Representation Plan calls for an active program for consumer involvement in regulatory and policy making decisions as well as an increased consumer information program. A position of Special Assistant to the Administrator for Consumer Affairs has been established to serve as a focal point for consumer contacts.

A number of mechanisms have been implemented to increase consumer input into Agency decisions. Offices developing new policy and rulemaking are required to incorporate explicit plans for public participation as part of the program to develop a rulemaking. The Special Assistant and the Office of Public Affairs will participate in the Agency Steering Committee review of forthcoming standards and regulation to assure that consumer concerns are considered. Lists of regulation under development will be announced publicly. Advance notification of individual rulemakings will be issued. These lists and notifications will be made by direct communication to consumers and consumer organizations and by press releases, as well as through the FEDERAL REGISTER mechanism. These actions have been implemented through a memorandum from the Administrator delegating responsibility and accountability.

An Agency-wide consumer complaint handling system has been initiated governing the preparation and management of Agency responses to consumer complaints. It provides a basis for control and analysis of consumer complaints so that specific areas of consumer concern may be identified and utilized by Agency management in the policy and decision-making process.

Consumer information services have been increased. In addition to providing information to the general consumer, the Agency has identified a number of consumer "subgroups", e.g. farmers, labor, youth, urban constituents, and is tailoring programs to provide information for each subgroup.

The plan identifies specific individuals and offices with EPA at both the regional and headquarters level to contact for information and to provide input.

III. PRIMARY OPERATING UNITS INVOLVED

EPA is a decentralized agency with Regional Offices and laboratories responsible for implementing and enforcing the policies, programs and regulations developed by the headquarters offices. This plan applies to all elements of the Agency. Direct contact with consumers will be maintained by each Headquarters Office and at each Regional Office. An organization chart showing the EPA organization and consumer contact points is included in this plan as Appendix A.

At the headquarters level, consumer contact will be coordinated by the Special Assistant to the Administrator for Consumer Affairs, although all offices responsible for the preparation of standards, regulations, guidelines and/or policy will be required to communicate with consumers and consumer groups. Responses to consumer complaints will be coordinated by the Public Information Center (PIC). Information on EPA activities and programs will be provided by PIC and the Office of Public Affairs. Appendix B provides a list of contact sources within EPA headquarters.

At the regional level, consumer contact is coordinated through the Office of Public Affairs. Appendix C is a list of contacts in each Regional Office.

IV. AGENCY PLAN FOR CONSUMER REPRESENTATION

Every citizen has a right, by law, to know what EPA is doing. This "right to know" is fulfilled by putting information on public record or by responding to requests for information. Some of the tangible evidence of this public record are found in technical publications, testimony, speeches, official statements, regulations, and similar documents.

EPA's consumer program is based on the principle that the public not only has the right to know, but also the "need to know." The difference is one of initiative. Under the concept of right to know, the information must be made available to the citizen who wants it. But if he needs to know, he must be sought out and informed.

The right to know and the need to know are basic to the operation of the Environmental Protection Agency programs for two major reasons: (1) EPA programs have a direct effect on an individual's health and well-being; and (2) many EPA programs need full and active citizen support and participation if pollution control is to succeed.

A. CONSUMER PARTICIPATION AND INVOLVEMENT

1. *Consumer Participation in Regulatory Policy.* It is the policy of the Agency to encourage participation by affected parties and interested members of the public in the development of regulations.

EPA Order 1000.6 entitled "Policy and Procedures for the Standards and Regulations Development Process" provides for participation and review by interested members of the public in development of standards. This order and the implementing "Standards and Regulations Manual" establish a policy and procedural framework for the development, internal coordination, external clearance, and promulgation of environmental standards, regulations, guidelines and notices of proposed rulemaking. The purpose of the Order is to insure that all concerned internal EPA offices, and external sources that have an interest in any contemplated EPA action, have the opportunity to provide input. The Order established a Steering Committee composed of senior representatives of the Agency's principal offices. The Steering Committee evaluates the majority of the Agency's standards, regulations and guidelines during the planning and development phases, and reviews them prior to publication in proposed or final forms.

The Office of Planning and Management coordinates the Agency's standard-setting activities, and ensures that interested groups and individuals have the opportunity to participate.

The lead program office for each regulation is responsible for implementing this policy of public participation and is required to actively solicit the views of the interested public, the Congress, State and local governments, Regional Offices, and regulated parties in the development of all regulations. Participation will take place throughout the rulemaking process, including consultation prior to both proposal and promulgation of regulations.

Within EPA, requests for the Administrator's approval to initiate a program to develop a standard, regulation, or major policy are required to include explicit plans for external participation. The decision to develop a new regulation will be announced publicly, including the issuance of a Federal Register Notice soliciting views and suggestions.

Such Notices will include the name of the staff person who will be available for direct contact by the public. Such Notices will be mailed to consumers and consumer groups known to have an interest in these regulations, and will be announced to the press. As part of its plan for public participation, each lead office, with the assistance of the Office of Public Affairs and the Special Assistant to the Administrator for Consumer Affairs must determine the need for public hearings either prior to or after proposal of such program.

Public participation is also obtained through the use of advisory committees. Committees, such as the National Air Quality Criteria Advisory Committee and the National Drinking Water Advisory Council meet regularly to review pertinent policy issues and specific forthcoming standards and regulations. All these committees have members representing the general public, and the meetings are open to the public. Concerned consumers have the opportunity at these meetings to present information related to the agenda, and to request consideration of matters related to the charter of the committee.

The Agency conducts detailed economic analyses of its regulatory actions prior to their proposal. These analyses range from microeconomic studies of the impacts of a particular action to general industry studies, and studies of the overall impact of pollution control requirements on inflation, GNP, and unemployment. Outside organizations and individuals have an opportunity to comment on these studies. Notices have been and will continue to be provided in the FEDERAL REGISTER and through direct mailings announcing the availability of such documents. In addition, EPA prepares Environmental Impact Statements for many significant actions. Draft versions are issued at the time of proposal of regulations or policy, and the public is invited to comment on these statements. The Agency will distribute such analyses and statements to interested parties as early in the development stage as possible.

Prior to proposal, the Agency distributes draft versions of policy statements and regulations to its Regional Offices, the EPA Offices of Legislation and Public Affairs, other Federal agencies, representatives of State and local governments, affected parties, and interested private citizens and environmental groups. Comments are reviewed and meetings are held with interested organizations and individuals, as appropriate, to resolve problems or questions which may have been identified.

After proposal in the Federal Register, the public is afforded an opportunity to comment on the proposed regulations. Should the rulemaking be of major significance, or be controversial, one or more public hearings may be held.

Prior to promulgation of a policy or regulation, the EPA office having the responsibility for its preparation prepares a detailed summary of comments received, their disposition, and the rationale for the action taken. Internal and external review of the action to be promulgated is repeated. A summary of comments received and the Agency response is prepared and incorporated into the Federal Register promulgation. Individual consumers and groups that participated in the development of a policy or regulation will be informed of the Agency's decisions. Copies of the promulgated regulations will be forwarded to parties that contributed input.

In addition to these programs conducted by the lead offices to ensure participation in the development of individual regulations, EPA will periodically publish a list of major regulations under development. The Office of Planning and Management will prepare such lists and will incorporate these lists into Federal Register Notices. These lists will also be distributed to consumers and consumer groups known to have an interest.

The Agency is taking steps to assure that these programs are implemented. On April 23, 1976, the Administrator issued a memorandum to all Agency Offices reaffirming the policy of the Agency to encourage participation by interested members of the public in the development of regulations and establishing specific requirements for its implementation on both new regulations and regulations currently under development. The memorandum requires requests for approval of regulatory starts to include explicit plans for external participation, calls for revision of the standards and regulations manual to be updated to place further emphasis on public participation, requires each program office developing standards to actively seek the views of the public and to coordinate these public participation activities with the Office of Regional and Intergovernmental Operations, Public Affairs, and Legislation and the Administrator's staff. It requires decisions to develop new regulations to be announced publicly, and notices of such to include the name of the staff person who will be available for direct contact by the public. This memorandum also requires several regulations under development to be subjected to a special program of extensive external involvement.

2. *Consumer Complaints.* Consumer complaints are to be handled in accordance with EPA Order 1560.1, issued November 20, 1975. All Agency offices are required to take positive steps to insure timely, effective response to consumer complaints on environmental matters.

This Order establishes Agency-wide policy and procedures governing the preparation and management of Agency responses to consumer complaints. It provides a basis for control and analysis of consumer complaints so that specific areas of consumer concern may be identified and utilized by Agency management in the policy and decision-making process.

The Public Information Center (PIC) has the responsibility to provide overall Agency coordination of consumer complaints. PIC prepares general responses, refers and controls specific complaints, maintains files, and provides reports and recommendations on all consumer complaints. Regional and Program Offices and field installations are required to prepare responses to complaints received directly from the public or through referrals.

Each office receiving consumer complaints maintains a control, logging, follow-up and reporting system for complaints received directly from the public either in writing or by oral means, and for complaints referred to the office. Responses to direct complaints are to be made in 10 working days; responses to referred complaints are to be made in 15 working days.

The Public Information Center prepares monthly reports indicating the subjects, volume, and analysis of complaints. These reports are submitted to the Assistant Administrator for Planning and Management for policy considerations, and to other officials depending upon specific issues raised.

3. *Special Assistant for Consumer Affairs.* The position of Special Assistant to the Administrator for Consumer Affairs has been established within the Agency as a focal point for consumer organizations and individual consumers. The Special Assistant will act as a liaison between national, state and local consumer organizations and Agency offices, will provide technical assistance and guidance in the development of Agency consumer representation programs, will establish relationships with consumer groups impacted by Agency policy and regulations, will coordinate the consumer activities of the Agency and will advise the Administrator on Agency matters of concern to consumers. The Special Assistant will transmit the concerns of consumers and consumer related organizations to the Administrator and the appropriate Agency offices. The mailing address for the Special Assistant is listed in Appendix B.

B. CONSUMER INFORMATION OUTPUT

In order to contribute to Agency planning or to forthcoming regulations, the consumer must have information available on the Agency's programs and goals. To provide this information, EPA's Consumer Representation Plan calls for increasing communication to consumers on issues and decisions, providing feedback to consumers on their comments, and a significant consumer education program on EPA activities.

1. *Communication to Consumers on Issues and Decisions.* Information on issues and decisions of EPA will be provided to consumers through the following channels:

FEDERAL REGISTER
Conferences.
Press Releases.
Speeches and Testimony.
Communication with environmental and citizen groups.
General mailings and media coverage.
Mailings tailored to specialized groups.

All standards, regulations and guidelines are published in the FEDERAL REGISTER. In addition, copies of the regulations will be prepared and distributed to known interested parties. Copies will be sent to parties who contributed to development of the regulations. EPA maintains a mailing list and distributes press releases on significant Agency decisions and findings. Each release will provide the name and telephone number of an individual to contact for further information. Press conferences are to be held on significant Agency actions and findings. The public and the press are to be notified of such conferences and will be afforded an opportunity for discussion through a question-and-answer session following the conferences.

There are a number of environmental news reporting services which are kept up-to-date on EPA activities. Through their publications a large segment of the concerned public is kept informed of actions and activities of the Agency.

2. *Feedback on Consumer Comments.* Feedback to the consumer is handled within the Agency on a program-by-program basis. A major portion of the general information is handled by the Public Information Center and the Office of Public Affairs at both the headquarters and the regional level. Technical responses are provided by the appropriate program office.

When the consumer or group has raised a technical point or has contributed technical data in support of a proposed rulemaking or policy, a staff member of the office preparing the rulemaking or policy generally contacts the consumer, either by mail or telephone to deliver EPA's response. Often, a meeting is set up to provide and obtain further information.

Each comment related to a proposed Agency action is analyzed, and a response is prepared. This response is either an indication of concurrence with the commenter, or explains the rationale for the rejection of the comment. A report analyzing each of the comments is prepared and made available to the public. In addition, the preamble to the promulgated regulation provides a summary of response to major comments. Copies of the promulgated regulations, including such summaries, are sent to individuals who have provided or requested information.

3. *Consumer Education Programs.* Public education plays a major role at EPA and substantial information is available on every major EPA program. Perhaps the best known example is the Agency program on automobile fuel economy. Another major consumer education program is related to the safe use of pesticides.

Pamphlets and reports are available at all technical levels ranging from the elementary school level to highly technical reports presented at scientific conferences. In addition to these reports, a number of reports are prepared for Congress, and distributed to the public.

The public education program is not limited to reports and booklets. Other communication media are also used to transfer information. These include informal public meetings and workshops, news releases, public service advertising, and television shows where viewers can discuss issues by telephone, advisory boards, and lectures by EPA officials to clubs and related organizations. Most recently, "town forum" type meetings have been initiated, where EPA officials meet with the public to informally discuss EPA's programs.

The Agency has initiated a program to identify "consumer subgroups" and tailor programs to provide information for each such group. Special programs are planned for labor groups, farm organizations, outdoor recreation and camping organizations, youth interest groups, retired people and the elderly, urban constituencies including minority ethnic groups, local government officials and associations. This is in addition to the conservation and environmental organizations with which EPA has maintained contact throughout the lifetime of the Agency, and to organized consumer groups. In addition to the subgroups identified above, the proposed Consumer Representation Plan identified a number of additional subgroups such as low income consumers, home economists, and planning commissions. The Agency will investigate the needs of such groups, and where possible, will tailor programs to suit the needs of these groups.

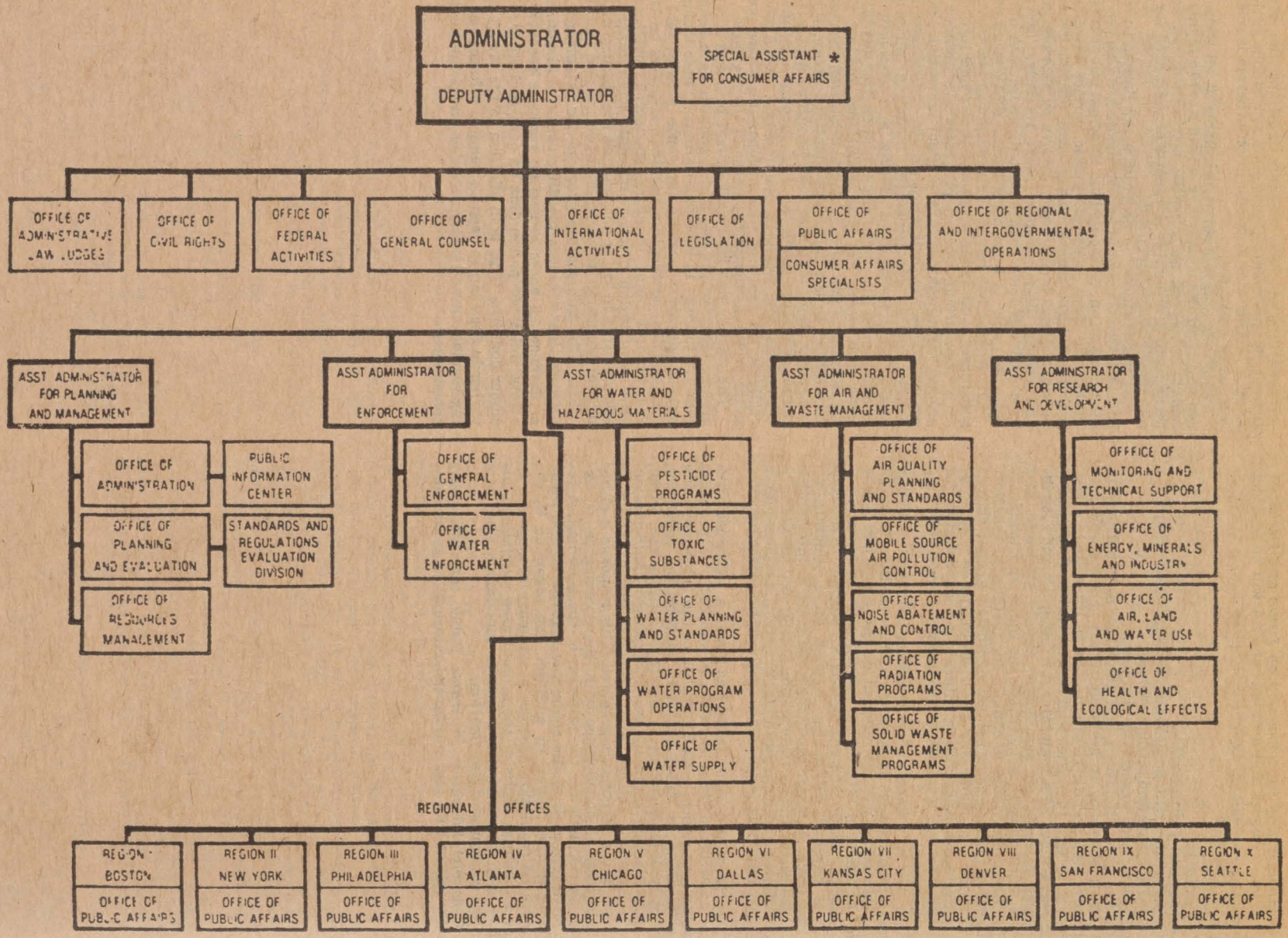
The Agency has held background briefings for these subgroups. Many pamphlets and brochures have been prepared that are tailored to individual groups. These include supplemental education packets for youth groups, fact sheets on the pesticide certification program, speakers on transportation control plans in cities, sponsored meetings between EPA information officers and state environmental officers, and meetings in major cities across the country with environmental groups on automobile inspection and maintenance.

The EPA information program for established consumer organizations includes briefings at national and/or regional conferences of these groups on resource recovery, pesticide safety, miles-per-gallon data on cars, and other related consumer concerns. This is in addition to the programs outlined earlier in the Plan to keep Consumers informed of forthcoming regulations and policy decisions and obtaining input from consumers.

APPENDIX A

U.S. ENVIRONMENTAL PROTECTION AGENCY

ORGANIZATION CHART



* Primary Consumer Contact Point

APPENDIX B.—CONTACT POINTS FOR CONSUMERS AT EPA HEADQUARTERS

Headquarters Mailing Address: U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Consumer Representative: Ms. Helen Fenske, Special Assistant to the Administrator for Consumer Affairs (A–101) (202) 755–0425.

Consumer Complaints: Ms. May C. Pettit, Public Information Center, Facilities and Support Service Division, Office of Planning and Management (PM–215) (202) 755–0707.

Information on EPA Activities and Consumer Programs: Ms. Kate Stahl, Consumer Affairs Specialist, Office of Public Affairs (A–107) (202) 755–0710.

Standards and Regulations—General: Mr. Walter C. Barber, Director, Standards and Regulations Evaluation Division (PM–223), Office of Planning and Evaluation (202) 755–2265.

Standards and Regulations—Individual Regulations: Announcements will be made in the FEDERAL REGISTER and through media for regulations under development. The name of the program manager to contact will be listed for each rulemaking.

APPENDIX C.—CONTACT POINTS FOR CONSUMERS AT EPA REGIONAL OFFICES AND NATIONAL ENVIRONMENTAL RESEARCH CENTERS

Paul Keough, Director of Public Affairs, U.S. Environmental Protection Agency, Region I—Room 2303, John F. Kennedy Federal Building, Boston, Mass. 02203 (617) 223–7223.

Herman Phillips (Acting), Director of Public Affairs, U.S. Environmental Protection Agency, Region II—Room 1005, 26 Federal Plaza, New York, N.Y. 10007 (212) 264–2515.

Diane Margenau, Director of Congressional and Public Affairs, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pa. 19106 (215) 597–9816.

Charles Pou, Director of Public Affairs, U.S. Environmental Protection Agency, Region IV, 1421 Peachtree St., N.E., Atlanta, Ga. 30309 (404) 526–3004.

Frank Corrado, Director of Public Affairs, U.S. Environmental Protection Agency, Region V, 230 S. Dearborn Chicago, Illinois 60604 (312) 353–5800.

Betty Williamson, Director of Public Affairs, U.S. Environmental Protection Agency, Region VI—First International Bldg., 1201 Elm St., Dallas, Texas, 75270 (214) 749–1962.

Rowena Michaels, Director of Public Affairs, U.S. Environmental Protection Agency, Region VII—Room 249, 1735 Baltimore Avenue, Kansas City, Mo. 64108 (816) 374–5894.

Howard Kayner, Director of Public Affairs, U.S. Environmental Protection Agency, Region VIII, Lincoln Tower Bldg., Suite 900, 1860 Lincoln Street, Denver, Colorado 80203 (303) 837–4905.

David Calkins, Chief, External & Inter-Governmental Relations Branch, U.S. Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111 (415) 556–6266.

Donald R. Bliss, Director of Public Affairs, U.S. Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101 (206) 442–1203.

Chris West, Director of Public Affairs, Nat'l Environmental Research Ctr., 200 S.W. 35th Street, Corvallis, Oregon 97330 (503) 752–4300.

Geneva Douglas, Director of Public Affairs, Nat'l Environmental Research Ctr., P.O. Box 15027, Las Vegas, Nevada 89114 (702) 736–2969.

Ernie Minor, Director of Public Affairs, Nat'l Environmental Research Ctr., Cincinnati, Ohio 45268 (513) 634–8348.

Elizabeth M. Martin, Director of Public Affairs, U.S. Environmental Protection Agency, Office of Administration, Research Triangle Park, North Carolina 27711 (919) 688–8559.

APPENDIX D—PUBLIC COMMENT ON THE PROPOSED CONSUMER REPRESENTATION PLAN

On November 26, 1975, the Environmental Protection Agency, along with other Federal departments and agencies, proposed a Consumer Representation Plan (40 FR 5523). EPA participated in White House Regional Conferences held in Boston (January 16, 1976), Houston (January 21, 1976) and Denver (January 26, 1976). In addition, the Agency held two public hearings on February 27, 1976 at Agency headquarters. Comments were also solicited at the six other Regional Conferences held by other agencies. Meetings were also held with consumer groups on May 19, 1976 and with the Consumer Advisory Council on May 25, 1976.

In all, 41 comments were received by the Agency. A large number of these did not relate directly or indirectly to the Plan, but rather, related to specific Agency actions. Comments unrelated to the plan have been answered individually. The Agency has compiled a detailed summary of all comments received and responses to those related to the Plan. Individual copies of this summary may be obtained, without charge, from the Public Information Center, Office of Planning and Management (PM–215), U.S. Environmental Protection Agency, Washington, D.C. 20460. The public comments are available for inspection at the Freedom of Information Center, 401 M St., SW., Washington, D.C. 20460.

A brief summary of comments related to the plan and the Agency response is given below.

The largest number of comments related to the pros and cons of adopting a Consumer Plan rather than the forming of a "Consumer Agency". The response to these comments has been prepared by the Office of Consumer Affairs.

A number of commenters expressed concern that there is no central focal point for consumer participation within the Agency. Accordingly, the Agency has created a position of Special Assistant to the Administrator for Consumer Affairs. In addition to other duties elaborated on in the Plan, the Special Assistant will transmit the concerns of consumers and consumer-related organizations to the appropriate Agency offices at headquarters and in the regions.

A large number of comments related to the mechanisms of increasing public, and especially consumer participation in development of regulations and policy. In particular, a number of commenters recommended the use of mechanisms other than FEDERAL REGISTER Notices for requesting public comment. Several others indicated that comment periods of 30–45 days are insufficient to allow appropriate response to major issues or regulations. In response to these comments the Agency has adopted a program to improve public awareness of Agency actions. Advance notice of Agency rulemaking will be given for the development of all significant new regulatory Agency actions. In addition to publication in the FEDERAL REGISTER, this advance notification will be mailed to consumer and other groups known to have an interest in such programs, and to individual consumers who have requested or provided information on related matters. The EPA "consumer subgroup" program will aid in identifying groups to be notified.

As noted in the Plan, each Office having a lead role in developing rulemaking or policy will be required to prepare explicit plans for external participation at the time the program to develop the rulemaking is initiated. These plans will be reviewed by the Special Assistant to the Administrator for Consumer Affairs and by the Office of Public Affairs. The Special Assistant and the consumer specialists within the Office of Public Affairs will participate in reviews by the Agency's Steering Committee for review of standards, regulations and other rulemaking.

The length of time available for public response to proposed rulemaking is of necessity, a compromise between the need to expedite issuing a regulation and affording the most desirable period of time to allow a studied response. Often, deadlines are established by statute. The Agency will attempt, where practical, to extend the time for public comment to proposed regulations. However, it should be noted, that although the typical response time for comments had been set at 30–45 days, it always has been Agency policy to accept and consider comments after the comment period has expired up until the final regulation is prepared. This policy will be continued, and a comment period of 60 days will be allowed for major regulations, when such time does not conflict with statutory deadlines.

A public interest organization criticized EPA's advisory committees as being too formal, thereby making it difficult for members to fully state their position. This organization further notes that environmentalists have been dropped from such advisory committees because they have been too effective in pinpointing EPA weaknesses. The Agency strongly refutes this latter statement, and knows of no such cases. It is true that advisory committees have a formal agenda and as a result, are not the most effective method of obtaining public input. On the other hand, these committees, as required by the Federal Advisory Committee Act, have a balanced membership including members representing the public interest. At these meetings, concerned consumers have the opportunity to present related information and to request consideration of matters related to the charter of the committee.

Several commenters expressed concern that this plan is a headquarters plan and that there is insufficient regional and local participation. It should be realized that overall policy and the majority of rulemaking is conducted at the headquarters office. However, the Agency is aware and takes into consideration regional and local needs. The Office of Regional and Intergovernmental Liaison (ORIO) is represented on the Agency's standing Steering Committee for standards and regulations. In the setting of standards a lead region is designated to participate in the working group developing the rulemaking and to represent all ten regions. Other regions are also invited to participate. Each regulation developed is circulated to affected regions for review.

The Plan has been expanded to include procedures for complaint handling at the regional level. In addition, review of National Pollutant Discharge Elimination System permits and state implementation plans takes place at the regional level and procedures for review of such call for public participation.

A few commenters expressed disappointment in the Agency program for handling consumer complaints. The Agency has been aware of the need for improvement of the handling of consumer complaints and on November 20, 1975 issued an internal order (EPA Order 1560.1) revising complaint handling procedures. The order established Agency-wide policy and procedures governing the preparation and management of Agency responses to complaints and provides a basis for control and analysis of complaints so that specific areas of concern may be identified and utilized by Agency management in the policy and decision-making process. In addition to designating the Public Information Center as the overall Agency coordination point for complaints, it establishes procedures for Regional and Program Offices and sets requirements for control, logging, follow-up, reporting and response time.

Finally, a number of commenters indicated the difficulty of determining contact points within the Agency. Accordingly, as part of the plan, the Agency is providing the names, addresses and telephone numbers of contact points within the Agency, as well as an organization chart of the Agency.

FEDERAL ENERGY ADMINISTRATION

Consumer Representation Plan

PRIMARY CONSUMER CONTACT

Director, Office of Consumer Affairs/Special Impact, Room 4310, Federal Energy Administration, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202) 961–6055.

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I. STATEMENT OF PURPOSE

The purpose of this Consumer Representation Plan is to enable persons who are affected by major FEA sponsored legislation, regulation, policy, decision or program action to have the opportunity to comment on the subject before a decision is reached, and to provide for consideration of these views in the agency's decision-making process. It is FEA's intent to actively solicit consumer opinion and to make the individual offices responsive to consumer requests for information and opportunities to be heard.

It is a basic premise of this plan that existing machinery and techniques for assuring consumer representation will be strengthened and that, where they do not exist, they will be instituted.

It is also our purpose to provide the mechanism for giving the management of the agency a better understanding of consumers' concerns and viewpoints. The Plan is intended to make it easier for the public and consumer groups to focus their attention on issues of special and general concern within the agency.

II. EXECUTIVE SUMMARY

A. On August 15, 1976, the Administrator will issue Guidelines for all FEA Assistant Administrators and Office Directors to follow in obtaining consumer participation in major FEA program and policy development. The Guidelines will include provisions for implementing the following improved procedures for consumer participation:

1. *Advisory Committees.* FEA is reexamining the composition of the agency's Advisory Committees to ensure adequate consumer representation on each Advisory Committee. There will be wider solicitation for consumer representatives and communication will be increased among the representatives on various committees. Procedures will be improved for notifying the public of Committee meetings, maintaining records, providing responses to the Committees on their recommendations, and informing the Committees of pending issues.

2. *Utilizing Consumer Complaints as an Information and Guidance Tool.* The Office of Consumer Affairs/Special Impact plans to implement a computer oriented consumer complaint/correspondence processing system. This system will be designed to provide to all program offices aggregate data on the energy problems of consumers by location and by type of complaint.

3. *Consumer or Citizen Conferences.* This mechanism will be utilized more frequently by FEA offices. Each regional CA/SI officer will work with State Energy Offices and private organizations to conduct state Consumer Energy Workshops in coordination with the National CA/SI office. Workshops will be scheduled at locations which are accessible. Meetings will be open to the public, and special mailings will be used to invite citizens who are not affiliated with an organized group, as well as members of groups who are particularly affected by rising energy costs.

4. *Liaison with Consumer Groups.* Each program office will have standing arrangements that provide for consultation and exchange of views with interested or affected persons and organizations on development or revision of major plans, programs, or other significant actions prior to decision making. The CA/SI Office will serve as the focal point for coordinating this exchange of views. Regional CA/SI Officers will maintain liaison with State Energy Offices, and they will hold monthly meetings with citizens and citizen organizations to hear their views on FEA policies and programs. Citizens will be invited in each region to discuss issues of concern to consumers.

5. *Public Hearings.* FEA will ensure adequate notice of proposed changes in rules, regulations, orders, etc., by providing the maximum possible notice of public hearings in the FEDERAL REGISTER in straightforward language, and will provide notices to national and local press and periodicals in the form of news releases suitable for publication as news items. Discussions of highly technical information will appear in the preambles of Federal Register notices. When feasible, hearings will be scheduled outside of Washington, and special mailings by the Office of Communications and Public Affairs, the Office of Consumer Affairs/Special Impact, and the Regional CA/SI Officers will be used to solicit written testimony from interested citizens.

6. *Staff Development of Consumer Information and Analytical Materials.* (a) Each Assistant Administrator and Office Director shall provide, to the extent practicable, policy or technical information concerning major proposals and other important program or policy actions at the earliest practicable time, and at places easily accessible to interested persons and organizations, and inform consumers about the availability of such material to enable them to make informed and constructive contributions to the agency's decisionmaking process. Special efforts will be made to summarize complex technical materials for public and media use.

(b) The office initiating a program or policy action will provide a response to interested persons and organizations concerning their recommendations and suggestions (other than comment on rulemaking) within a reasonable period of time after receipt of such recommendations.

The Guidelines for implementation of the Plan will set forth specific criteria for the development and dissemination of policy and program information.

7. *Consumer Impact Evaluation.* For any major proposal as defined by the FEA Directive for Implementation of Executive Order 11821 (which requires that major proposals for legislation and for the promulgation of rules and regulations by an executive branch agency be accompanied by a statement certifying that the inflationary impact of the proposal has been evaluated), the Assistant Administrator or Office Director must indicate that where such a major proposal has been evaluated, the evaluation includes a section on consumer impact which contains:

(a) An analysis of the principal cost or direct price effects of the action on markets, consumers, businesses, regions of the country, and where feasible, an analysis of secondary cost and price effects. These analyses should have as much quantitative data and precision as practicable and should cover a time period sufficient to determine economic and inflationary impacts.

(b) An indication of the benefits to be derived from the proposed action. These benefits should be quantified to the extent practicable.

(c) A review of alternatives to the proposed action.

FEA will maintain a list of all major proposals which have been evaluated in accordance with Chapter 4 of the Directive for the Evaluation. Copies of that list and the Summary of the Inflationary Impact Evaluation and the accompanying consumer impact evaluation will be made available to the public for inspection through the Public Document Room, FEA National Office, 12th and Pennsylvania Avenue, NW.,

Washington, D.C. 20461. These documents will be written in a form suitable for a general audience.

8. *Increased Availability of Materials Containing Consumer Impact Evaluations.* FEA will increase availability of materials containing analytical information that will be useful to consumers at the earliest practicable time and at places easily accessible to interested or affected persons and organizations and inform them of the availability of this information through consumer organizations, press releases and speechs by FEA officials. As outlined in Section 7, Consumer Impact Evaluation, FEA will ensure that summaries of these evaluations are available for public inspection.

9. *External Liaison.* Media communication techniques will be utilized more fully to solicit consumer opinions and to publicize agency decisions and their impact. This will be accomplished through providing increased accessibility for consumers to regular mailing lists, speeches by key officials outlining the opportunities for consumers to provide input on agency decisions, and wider dissemination of information describing opportunities for participation through news releases, national periodicals and newsletters.

In addition, FEA will regularly publish lists of current rulemakings and administrative proceedings and lists of new publications, scheduled hearings and workshops. These lists will be developed by the FEA Office of Communications and Public Affairs.

B. The Director of the Office of Consumer Affairs/Special Impact will be responsible for coordinating the implementation of the Plan and will report directly to the Administrator. Each program office and Regional Administrator will submit individual plans to the Director of the Office of Consumer Affairs/Special Impact through the Office of Management and Administration for implementation of the Plan and the Guidelines. Each program office will designate a liaison person to work with the CA/SI office to implement the Plan. In each Regional Office the CA/SI Officer will serve as the focal point for implementation of the Plan.

III. Primary Operating Units Involved

Due to the influence of energy on American life and the role that this agency plays in determining national energy policy, actions of virtually every office in FEA have high impact upon consumers.

The Office of Consumer Affairs and Special Impact is presently a part of the Office of Intergovernmental, Regional and Special Programs, but by special provision the Director of CA/SI has independent and direct access to the decision-making process and the Administrator. In addition to the CA/SI office located in Washington, D.C., there are ten regional Consumer Affairs/Special Impact Officers who are responsible for implementing FEA consumer policies and programs in the regions. The functions of the CA/SI office and the regional CA/SI Officers are as follows:

1. Review and analyze the actual and potential impact of FEA policies, programs and energy related problems on the consumer, the poor, the handicapped, and the elderly.

2. Advise the Administrator on the results of reviews and analyses so that he may consider those factors in the development of FEA policies and programs.

3. Provide information on FEA policies and programs to Federal, State, and local agencies, and private organizations representing consumer and special impact concerns.

4. Review the policies and programs of other Federal agencies with potential for alleviating the energy-related problems of consumers, the poor, the handicapped, and the elderly.

5. Recommend new or modified Federal policies and programs to alleviate the adverse effects of energy problems on consumers, the poor, the handicapped, and the elderly and assist in the development and implementation of new programs.

6. Review the policies and programs at State and local levels with potential for alleviating the energy-related problems of the consumer, the poor, the handicapped, and the elderly.

7. Recommend new or modified State and local level programs to alleviate the adverse effects of energy problems on consumers, the poor, the handicapped, and the elderly and assist in the development and implementation of new programs.

In performing these functions CA/SI has sought maximum consumer involvement. With respect to policies and programs which originate in other offices, CA/SI has both coordinated consumer input on request by those offices and ensured that offices solicit consumer input on FEA policies. Each program office will appoint a consumer liaison who will be responsible for coordinating with CA/SI to implement the Plan.

A. Program Offices

Office of Energy Resource Development assesses the adequacy of energy resources to meet demands in both the short and long-term for all sectors of the economy and for the general public; develops and implements policies and programs which promote the development of energy resources to insure adequate supplies; and expedites the development, on a site-specific basis, of necessary energy projects.

Office of Regulatory Programs develops plans and programs for dealing with energy shortages; promotes stability in energy prices to the consumer; promotes free and open competition in all aspects of the energy field; prevents unreasonable profits within the various segments of the energy industry; and assures that energy regulations are designed and implemented in a fair and efficient manner so as to minimize hardship and inequity.

Office of Conservation and Environment develops and implements voluntary and mandatory energy conservation programs aimed at reducing the U.S. demand for energy and ensures that energy goals are balanced with environmental concerns. Within the Office of Conservation and Environment, the Office of Environmental Programs coordinates the preparation of FEA Environmental Impact Statements; advises the agency on environmental matters related to energy production, conversion, and consumption; and advises the agency on the energy and economic impacts associated with environmental requirements.

Office of Policy and Analysis collects, evaluates, assembles and analyzes energy information on reserves, production, demand and related economic data; develops plans and programs for dealing with energy production shortages; assesses the adequacy of energy resources to meet demands in the immediate and longer range future for all sectors of the economy and for the general public by forecasting short and long range supply and demand; analyzes the economic impact of energy policies on consumers, industry and the economy; and recommends policies to the Administrator with respect to the establishment of a comprehensive national energy policy in relation to the energy matters for which the Federal Energy Administration has responsibility. This office also has responsibility for ensuring the preparation of inflationary impact evaluations.

Office of International Energy Affairs directs development, analysis, evaluation, monitoring, coordination and implementation of international aspects of energy policy, analyzes domestic energy policy from an international perspective and seeks to assure appropriate integration of domestic and international policies.

B. Liaison Offices

Office of Management and Administration administers a broad range of FEA-wide management activities which include organizational studies and program formulation and analysis.

Office of Intergovernmental, Regional and Special Programs develops effective arrangements for the participation of State and local governments, small business and consumers in the resolution of energy problems.

Office of Congressional Affairs responds to requests from Congress and acts as FEA's Congressional liaison and processes consumer/constituent communications which have been sent by consumers to Members of Congress.

Office of Communications and Public Affairs responds to public/consumer inquiries and disseminates information from the agency to the public.

C. Offices of General Counsel and Private Grievances and Redress

Office of General Counsel serves as the chief legal advisor to the Administrator in all matters of law and policy, particularly with regard to implementation of statutes administered by the Federal Energy Administration and regulations promulgated pursuant to such statutes; provides continuing legal review of agency operations, compliance and enforcement activities and represents the agency, through the Department of Justice, in all litigation where the agency is a party.

Office of Private Grievances and Redress receives and evaluates petitions filed by persons adversely affected by any order, rule or regulation issued by the Administrator in carrying out the functions assigned to him under the FEA Act and petitions filed by persons requesting special redress, relief, or other extraordinary assistance and makes recommendations to the Administrator for appropriate action.

Each of the FEA offices previously described participates in the processes through which decisions are made in FEA. These processes are described below because a major purpose of this Plan is to heighten consumer awareness of the system so that consumers will be able to provide comments at the appropriate levels of decision-making.

Processes Through Which FEA Decisions Are Made

A. ISSUE RESOLUTION

The FEA decision-making process is a standard operating mechanism within the agency. When an issue is identified which necessitates a high level policy decision, an issue paper is written by the originating office and circulated to all Assistant Administrators for evaluation by the Policy Issues Coordinator (who reports to the Deputy Assistant Administrator for Policy within the Office of Policy and Analysis). Comments and recommendations are prepared by each Assistant Administrator and Office Director who has an interest in the policy issue. These comments and recommendations are returned to the originating office via the Policy Issues Coordinator where all comments are reviewed and appropriately incorporated into the paper. As a result of the process to this point, the issue has been clarified and the various options for implementation and their impacts have been analyzed. The issue is then forwarded to the Deputy Administrator for review and an issues review meeting is convened to discuss the issue. This group, composed of all Assistant Administrators and Office Directors, including the Director of the Office of Consumer Affairs/Special Impact, recommends to the Administrator a specific course of action. If a consensus is not reached by this group, the issue paper is forwarded to the Administrator with each office's recommendation noted.

The Administrator makes the final decision on the issue, and authorizes the appropriate office to begin implementation. The system which has been described is used not only for policy proposals, but also for regulation development, program implementation and initiation of all actions directed by the President. In the past, policy proposals, regulations and program plans have come, to a large extent, from four main sources—FEA offices, Congress, the public and the President.

B. PROGRAM DEVELOPMENT

The Program Development Process is utilized to resolve issues concerning the location and execution of a major FEA program which would be newly included in FEA operating plans; would involve significant change from existing program direction or priorities; or would require appropriation of available resources or distribution of resources currently available. The Action Assistant Administrator (AA), the General Counsel (OGC) or a member of the Executive Staff prepares a memo which is forwarded to the Office of Management and Administration (M&A) outlining the various aspects of the program proposal. The Process Manager for M&A forwards the proposal to the Office of Policy and Analysis (P&A) and prepares a program and resource management evaluation. P&A conducts required impact assessments and reviews the proposal for consistency with FEA and Energy Resources Council (ERC) policy. These comments are appended to the proposal and incorporated into all future program recommendations. M&A forwards the proposal with M&A and P&A comments to OGC, relevant Assistant Administrators, major Office Directors and Regional Administrators for review and comment. Upon receipt of their comments, the Process Manager meets with the initiating AA to develop a final recommendation for the Deputy Administrator and the Administrator. After a program is approved by the Administrator, the Deputy Administrator advises the Process Manager who will advise the action AA of the approval and initiates the administrative follow-up actions which include integration into agency operating programs. The Action AA takes the necessary operational implementation steps approved in the program document.

IV. Agency Plan

INTRODUCTION

The Federal Energy Administration was established during a crisis resulting from the sudden energy shortage created by the Oil Embargo of 1973. Its functions were primarily regulatory in that the agency was mandated to allocate available petroleum products to consumers at equitable prices. During the first year of the agency's existence, an analytical and data gathering arm was established to assist the President in developing a national energy policy as required by the Federal Energy Administration Act (FEAA) of 1974. Therefore, the FEA is in the position of acting as both a regulatory and policy formulating agency. Additional programs grew out of the energy policy articulated by the President. In addition, the agency is often required to respond on short notice to requests for energy analysis from both Congress and the Administration.

As the crisis atmosphere subsided and as agency officials became sensitized to the need for public awareness of agency policies and goals, the mechanisms for involving consumers were used more frequently. The development of this plan for consumer representation provides the basis for and a commitment to, more complete involvement of consumers in the agency's activities. Consumer participation techniques have always been used in the agency's regulatory process to the extent required by law, and consumer and public interest groups have in fact participated in the rulemaking and other activities by which FEA regulatory policies are effectuated. Those offices which are responsible for the development and implementation of programs have, to some extent, used one or more of the consumer participation techniques listed in this Plan.

It is the Agency's intention to maximize advance consumer involvement in the development of programs and policies covered by this Plan. In those instances in the past where the Agency has failed to provide specific impact information, it has been due to the fact that FEA initially used supply, demand and consumption data compiled by other agencies and by industry. Those data were not compiled in a format which allowed detailed specific impact evaluation. FEA has now developed its own data base and is filling identified data gaps. We will continue to refine our data system to provide more specific impact information.

This Plan also creates a responsibility on the part of various offices within the Agency to provide information to consumers, and places principal responsibility for implementation upon individual program offices, thereby increasing the Agency's accountability for its actions.

A. FEA MECHANISMS FOR OBTAINING CONSUMER OPINION

On August 15, 1976, the Administrator will issue Guidelines for all FEA Assistant Administrators and Office Directors to follow in obtaining consumer participation in major FEA program and policy development. The Guidelines will include provisions for implementing the following improved procedures for consumer participation.

1. *Advisory Committee.* There are currently 13 FEA Advisory Committees in addition to the Consumer Affairs/Special Impact (CA/SI) Advisory Committee. Each of these has from 1 to 3 consumer representatives, except the CA/SI Advisory Committee where the majority of the members represent various consumer sub-groups. FEA has begun to reexamine the composition of all Advisory Committees to ensure adequate consumer representation. As a result of this investigation the following policies will be implemented for which specific procedures will be outlined in the Guidelines:

(a) Each FEA Advisory Committee will be composed of 10 percent consumer representatives where practicable. Consumer representatives will be defined as individuals with the expertise and experience to represent the consumer point of view.

(b) The CA/SI Advisory Committee will be structured to provide balanced representation of consumer and special impact groups as well as diverse regional and income groups.

(c) Mechanisms for seeking nominations for consumer representatives on FEA Advisory Committees will be expanded. When vacancies occur, FEA will solicit nominations through news releases, FEA publications, consumer organizations' newsletters and notices in the Consumer Register. The CA/SI office will maintain a list of interested persons and organizations and will contact them to request names of prospective appointees.

(d) FEA will increase communication and coordination between consumer representatives on FEA Advisory Committees by providing information on activities and actions of the CA/SI Advisory Committee.

(e) Following each Advisory Committee meeting the appropriate program office will prepare a summary for the Administrator. FEA will reply to requests for information which have been made by the Committee. Commitments made by FEA officials to provide information or other related assistance will be reported to the Administrator and followed up in subsequent Committee meetings.

(f) Meetings will be announced at least 15 days in advance, except in cases of emergency or where an Advisory Committee meets on a monthly schedule. Mechanisms to notify citizens of upcoming meetings will be expanded to include the CONSUMER REGISTER, consumer publications and local newspapers through distribution in energy columns.

(g) Notices for meetings will clearly specify the agenda. Members may be consulted to determine items that they wish to have on the agenda so that the published agenda accurately reflects topics to be discussed.

(h) Efforts will be made to schedule meeting in cities other than Washington so that the members of the public in areas outside Washington will have an opportunity to attend and present public statements.

(i) Transcripts of all FEA Advisory Committee meetings are available under the Freedom of Information Act, the Advisory Committee Act and the FEA. They may be obtained upon request from the FEA Advisory Committee Management Office.

(j) In regular meetings with Advisory Committees, the Administrator or his representative will outline pending policy issues so that the Committee will have an opportunity to analyze the issues fully and develop substantive comments.

2. *Consumer Correspondence and Complaints.* FEA's enabling legislation does not confer upon the agency the jurisdiction to solve most energy-related consumer problems. For this reason, most complaints are referred to a Federal, State or local governmental or private organization that is capable of offering assistance. Nevertheless, the volume of complaints and consumer correspondence received by the agency is great, and it contains a large amount of information. This information, if catalogued and analyzed, could be of significant value in the policy formulation and implementation process. To facilitate this, the Office of Consumer Affairs/Special Impact will implement a computerized consumer complaint/correspondence processing system. In addition to collecting, storing and providing data on correspondence received by the various offices within the Federal Energy Administration, including the Office of Communications and Public Affairs, the system will be designed to remedy the defects which currently exist in FEA's correspondence and complaint handling procedures as pointed out by the TARP Study,[1] as those defects relate to policy formation.

First, all correspondence and complaint data will be located at one point, for easy reference. Receipt of correspondence will be acknowledged and responses will be personalized. Data on the correspondence will be maintained which will include the type of complaint, region, State and discernible socio-economic characteristics of the complainant. In addition, information will be included in the FEA response to indicate when a referral was necessary and where such referral has been made. By arranging this information in various combinations, data emerge which will be helpful in providing support for policy formulation which accurately reflects the interests and concerns of consumers expressed in their correspondence. For example, if correspondence data reveals that a current policy or regulation is having an undesirable effect on a specific part of the population, such as the elderly, this information can be used to support a recommendation to change that policy or regulation.

Second, this system will produce summary sheets on a monthly basis which will be circulated to all program offices. The sheets will provide those offices with an accurate profile of the types of complaint by region, State and socio-economic characteristics of both the correspondence which has been received during the month and a summary of all correspondence received prior to that date. If more detailed information is desired by any office, a request can be made and the appropriate data will be provided.

It is anticipated that, along with the institution of the computer system, a correspondence unit will be added to the Office of Consumer Affairs/Special Impact, enabling that office and therefore FEA, to more effectively and rapidly deal with consumer correspondence by giving it the capability to refer complaints and problems to other governmental agencies which have the ability and authority to solve the complaints. This unit will aggressively follow referrals, by using the system to maintain referral information, and to ensure that the referral agency is helpful to the consumer.

In the future, the system will be capable of storing and producing correspondence information not only from energy-related consumer correspondence received by FEA, but also those complaints received by State and local energy offices when that information is forwarded to FEA by the agencies on a voluntary basis. This will yield an even greater data base for use in the formulation of Federal energy policy. By October 1, 1977, FEA will evaluate the usefulness of the system to see if it significanly improves the decision-making process as it relates to consumers and to determine if it should be continued.

3. *Consumer or Citizen Conferences.* The Office of Consumer Affairs/Special Impact has found consumer/citizen conferences to be extremely useful in obtaining citizen opinions and ideas for use in policy formulation. This mechanism will be used more frequently by other FEA offices in the future.

Since consumer/citizen conferences can be used for general and informational purposes as well as specific program planning circumstances, each program office will either conduct some form of consumer/citizen conference or make arrangements to participate in relevant citizen conferences arranged by other offices, agencies, or private organizations. When planning conferences, efforts shall be made to present a balanced point of view and to invite diverse citizen groups.

The regional CA/SI Officers are now coordinating with State energy offices and other groups in the planning of state-level consumer energy workshops in order to provide a forum for the exchange of ideas and information and to obtain opinions on FEA policies and programs from all interested consumer groups and citizens. In scheduling these workshops, efforts will be made to hold the meetings in locations and at times which are convenient for a broad section of the public to attend. The meetings will be open to the public; however, special mailings will be used to notify consumers and special impact groups.

The appropriate FEA official, program or regional office will provide feedback to citizens on their recommendations.

4. *Liaison with Consumer Groups.* FEA will maintain regular contacts with consumer groups at both the national and regional levels.

Each FEA program office will improve utilization of this technique by developing standing arrangements that provide to the maximum extent practicable for appropriate consultation and exchange of views with interested persons and consumer organizations on the development or revision of major policies or programs prior to decision-making. Such arrangements will include either maintaining a list of all persons interested in participating in the decision-making process and contacting interested persons and organizations before issues are resolved, or advising the CA/SI office that FEA would like to solicit consumer opinion. The CA/SI Office will arrange for appropriate meetings. In addition, each FEA office will regularize this contact with consumer groups by periodically scheduling meetings as appropriate to permit consumers to present their views on major program or policy actions. The offices will provide appropriate program, policy or technical information for such meetings to interested individuals. The FEA will continue to provide to the public, in connection with promulgation of final regulations, the rationale for such decisions. The CA/SI office will serve as the focal point for coordinating this exchange of views.

The regional CA/SI Officers will be responsible for forwarding to CA/SI information from their region on consumer views and energy problems. They will accomplish this through regular consultation with State Energy Offices and consumers. Each CA/SI Officer will hold monthly meetings with citizens and citizen organizations to hear their views on FEA policies and programs and provide information on FEA

[1] In 1975 the Office of Consumer Affairs of the Department of Health, Education and Welfare, contracted with Technical Assistance Research Programs (TARP) to determine the feasibility of improving the handling of consumer complaints. The resulting study described and evaluated the FEA Consumer complaint-handling system.

activities. In addition, citizens will be invited regularly to discuss their concerns relating to energy issues.

5. *Public Hearings.* Public hearings are held whenever they are required by the FEA Act, other laws, or when the public interest would be served. The typical problem inherent in these proceedings is providing adequate public notice. One method of overcoming this problem, as described in the previous section on Liaison with Consumer Groups, is to actively solicit consumer opinion through mass mailings to groups with interest in a particular issue. However, this procedure alone is inadequate. FEA will provide the maximum possible notice of public hearings in the FEDERAL REGISTER and the CONSUMER REGISTER, and will prepare press releases for national and local press and periodicals in a form suitable for news articles. Straightforward language will be used in the text of the Notice. When the information is particularly technical, discussions will appear at the beginning of the Notice. When possible, hearings will be held outside of Washington and the ten Federal regional cities. Since equal weight is given to written testimony in the analysis of comments, the Office of Communications and Public Affairs, the CA/SI Office and the regional CA/SI Officers will conduct special mailings of Notices to ensure that interested citizens are informed of proceedings.

6. *Consumer Impact Evaluation.* For any major proposal as defined in the FEA Directive for Implementation of Executive Order 11821 [2] (which requires that major proposals for legislation and for the promulgation of rules and regulations by an executive branch agency be accompanied by a statement certifying that the inflationary impact of the proposal has been evaluated), the Assistant Administrator or Office Director must indicate that where such a major proposal has been evaluated, the evaluation includes a section on consumer impact which contains:

(a) An analysis of the principal cost or direct price effects of the action on markets, consumers, businesses, regions of the country, and where feasible, an analysis of secondary cost and price effects. These analyses should have as much quantitative data and precision as practicable and should cover a time period sufficient to determine economic and inflationary impacts.

(b) An indication of the benefits to be derived from the proposed action. These benefits should be quantified to the extent practicable.

(c) A review of alternatives to the proposed action.

The CA/SI office will participate in the analytical review of all draft inflationary impact evaluations prepared by the Office of Economic Impact Analysis.

Where a major proposal is evaluated in accordance with Chapter 37 of The Directive on the *Evaluation of the Inflationary Impact of Major Proposals for Legislation and for Promulgation of Regulations or Rules*, the summary of that statement will be prepared and sent to the Public Document Room of FEA, 12th & PA Avenue, NW., Room 3116, Washington, D.C. 20461, for public inspection in accordance with that Directive. At the same time a copy of the summary paper will be forwarded to the Office of Consumer Affairs/Special Impact for dissemination to the public.

As required by that Directive, if a proposal does not reasonably appear to be a major proposal as described in paragraph 6 of the Directive, the transmittal letter for legislation or the notice for proposed rules or regulations presented to the FEDERAL REGISTER for publication will include a statement that the proposal has been reviewed in accordance with the Directive and has been determined not to require an evaluation of its inflationary impact as provided for therein. Included in such notice will be an explanation of why the proposal appears to be non-major. This explanation will be summarized subsequent to publication of the notice and also will be forwarded to the FEA Public Document Room and to the Office of Consumer Affairs/Special Impact for dissemination to the public.

7. *Marketing Surveys and Consumer Behavior Research.* In order to plan, implement, evaluate and improve its programs and policies, it is necessary for FEA to determine in the most systematic and scientific way possible, how government policies and programs, in conjunction with energy scarcities, higher prices, regulations, and laws affect American consumers' attitudes, beliefs, and preferences, and actual energy consumption patterns. To do this, large surveys drawn in such a way to be representative of the entire population have been conducted by FEA over the past two years and will be conducted in the coming year. To complement these surveys, focused group discussions of representative consumers in various cities have and will be conducted to help government officials understand the underlying beliefs and motivations of consumers regarding energy problems and their own energy using behavior. The Office of Consumer Affairs/Special Impact has an oversight role with respect to these surveys.

B. INFORMATION FEA WILL PROVIDE TO ENHANCE CONSUMER PARTICIPATION IN THE DECISION-MAKING PROCESS

1. *Consumer Education.* FEA will make every effort to translate highly technical information into a form that is relevant to and understandable by the general public.

Special efforts will be made through consumer conferences, Advisory Committees, liaison with consumer groups and agency communications to inform citizens of the basic energy issues, the options that are available to resolve these issues and the implications of implementing a particular option.

2. *Increased Availability of Documents and Materials Containing Consumer Impact Evaluations.* Subsection 7(i) paragraph (E), of the Federal Energy Administration Act of 1974 states that all internal rules and guidelines related to the development of a rule, regulation or order should be publicly available, with adequate provisions for ensuring confidentiality. However, the public is generally not aware of the types of useful information which have been developed by FEA and are available upon request. Part 202 of the Federal Energy Guidelines sets forth in detail the procedures for handling requests for information. An awareness of a document's existence, however, does not guarantee that

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[2] The identification of major proposals is discussed in Chapter 3 of the Directive on the *Evaluation of the Inflationary Impact of Major Proposals for Legislation and for Promulgation of Regulations or Rules.* "Proposals for the promulgation of a rule or regulation will be examined pursuant to Chapter 2 [of the Directive] and under the criteria outlined herein if such a proposal has completed consideration under FEA's internal procedures and represents an addition to or modification of the published *Federal Energy Guidelines.* In accordance with the intent of paragraph 4a of OMB Circular A-107, a proposal for legislation or the promulgation of a rule or regulation is a major proposal if its implementation is reasonably expected, within two years of its adoption unless a superseding time period is provided, to cause as a primary or direct effect:

a. *An increase in consumer costs.* Any proposal which would produce increased costs of energy supplied to consumers in the United States exceeding $100 million in the first year is a major proposal.

The criterion specified in paragraph 6a will constitute the primary factor in determining whether a proposal is major. However, the criteria outlined below may also be taken into account where appropriate:

b. *Other costs.* Any proposal likely to produce increased costs exceeding $50 million in any one year or $75 million in any two year period for any industry (4 digit SIC code), or State or local government is a major proposal;

c. *Effect on competition.* Any proposal likely to substantially lessen competition, limit market entry, restrain market information, increase concentration, or tend to create a monopoly or monopolistic market power in any line of commerce where commerce in the relevant market exceers $100 million per year is a major proposal;

4. *Reductions in supply of important materials.* Any proposal which would reduce the supply of important materials, products, or services (e.g., farming, automobiles, steel, construction, petrochemicals) by more than three percent will be considered a major proposal:

e. *Employment.* Any proposal likely to result in a decrease of employment in any year of 0.2 percent (170,000 workers) on a national level, or of 10,000 workers in a single economic sector, industry (4 digit SIC code) or a State or a local government is a major proposal;

f. *Effect on productivity.* Any proposal likely to result in cost impacts of the magnitude referred to in paragraph 6a through a reduction or restriction of industry output capacity or capital investment, an increase in labor man hours per unit of output, or a reduction or restriction in adaptation of new techniques, equipment, processes, or skills is a major proposal.

g. *Other.* Any other proposal determined in the sole discretion of the Administrator to have have an effect comparable to the effects just described and so designated by the FEA Administrator will be considered a major proposal.

a citizen knows how to request a document. Therefore, the Guidelines promulgated by the Administrator will contain provisions to ensure that the availability of informational materials is adequately publicized and that accessibility is increased. In addition, FEA will provide policy, program and technical information at the earliest practicable time and at places easily accessible to interested persons and organizations so they can make informed and constructive contributions to agency decisions. Public reading rooms at the National and Regional offices will have information on file. Citizens who are unable to travel to these locations may forward requests for information to the FEA Office of Communications and Public Affairs or to the National Energy Information Center, 12th & Pennsylvania Ave., NW., Room 1412, Washington, D.C. 20461. FEA will publicize the availability of this information through consumer newsletters, special mailings to consumer organizations, press releases and speeches by FEA officials.

3. *Staff Development of Consumer Information and Analytical Materials.* Generally, consumer information and analytical materials have not been developed specifically for distribution to consumers during the early stages of policy and program formulation. For the most part this has been due to those factors outlined in the Preamble which have limited the agency's ability to widely publicize proposed policies and programs.

However, FEA will improve utilization of this technique by requiring that policy, program or technical information be made available to interested or affected persons or organizations at the earliest practicable time, at places easily accessible, and that consumers are informed about the availability of such material so they can make informed and constructive contributions to agency decisions. FEA will provide feedback to consumers on their recommendations and suggestions. The Guidelines for implementation of the Plan will set forth specific criteria for the development and disssemination of policy and program information.

4. *Speeches by Key Decision-Makers.* FEA will expand this function. The Guidelines will outline procedures for key officials to follow to publicize FEA's effort to improve consumer participation in the FEA decision-making process by publicly explaining the process and soliciting consumer views.

5. *External Liaison.* Currently, the FEA Office of Communications and Public Affairs provides news releases on major policy decisions, speeches by key officials, and notices of meetings and other agency activities to interested press officials via routine mailings. Consumer groups and other interested individuals can be added to the mailing lists upon request, but they are generally not aware that this service exists. The Office of Consumer Affairs will submit its mailing list to the Office of Communications and Public Affairs for inclusion in regular distribution lists.

A special newsletter, the *Energy Reporter*, provides information on FEA policies to consumers and community leaders in nontechnical language. Often ideas for articles submitted by recipients are followed-up in order to provide a publication which is responsive to consumers.

Speeches and news releases will outline opportunities for consumers to make their views known to FEA and will provide feedback to citizens on whether their suggestions have been adopted. The Guidelines promulgated by the Administrator will include provisions to ensure that media communication techniques are utilized to both publicize opportunities for consumer input and provide feedback on agency decisions.

Both the Office of Consumer Affairs and the Office of Public Affairs maintain mailing lists of public interest groups which are categorized according to the areas of specific interest or expertise. The mailing list maintained by the Office of Public Affairs is the mailing list for the *Energy Reporter*. This system has the capability to list public interest groups by category of interest, region or state. Currently the circulation of the *Energy Reporter* is limited to 30,000. However, consumer interest in the publication has steadily increased and FEA is investigating the possibility of expanding the circulation of this publication. In addition, the Office of Consumer Affairs/Special Impact maintains a categorized list of public interest groups and interested citizens. This list is not computerized. However, the computer system for the *Energy Reporter* mailing list has the capacity for additional sub-systems of data. Therefore, CA/SI will computerize its existing mailing list by adding a special subsystem to the *Energy Reporter* computer system. This is intended to provide a flexible and accessible mailing list for disseminating information to interested groups and soliciting input for public hearings and informal liaison meetings on specific issues and policies.

In addition, FEA will publish regularly lists of current rulemakings and administrative proceedings, and lists of new FEA publications, scheduled hearings and workshops.

6. *Consumer Consultants.* Over the past year the Federal Energy Administration has contracted with public interest groups or individuals to prepare papers or special studies. Two studies were recently completed by public interest groups through contracts with the Office of Consumer Affairs/Special Impact. One of the studies was a handbook for State Energy Offices for dealing with consumer energy problems and the second evaluated and analyzed the existing data on the adverse impacts of energy issues and actions on special consumer groups. Other studies are now underway through contracts with public interest groups to identify techniques that consumers can use to influence transportation decisions within their community and on various conservation strategies for citizens.

In addition, FEA Advisory Committee members may recommend to the Administrator that the appropriate FEA program office undertake studies on specific issues. FEA will evaluate such recommendations according to the criteria established for awarding contracts. If the proposed study is approved, the appropriate program office may initiate the study through the regular procurement process. Where an agency determination is made that such a study is appropriate, the technical representative for the study must be an employee of the federal government. Appropriate consultation with the Advisory Committee will be maintained throughout this process.

7. *Responsibility for Implementation.* The Director of the Office of Consumer Affairs will be responsible for coordinating the implementation of the Plan and will report directly to the Administrator. Each program office and Regional Administrator will submit individual plans to the Director of the CA/SI office, through the Office of Management and Administration, for implementation of the Plan and the Guidelines.

Each program office will designate a liaison person to work with the CA/SI office to implement the Plan. In each regional office the CA/SI Officers will serve as the focal point for implementation of the Plan.

V. Schedule of Events

Publication of Final FEA Consumer Representation Plan; June 1976.

Computerized CA/SI consumer mailing list will be operational; July 1976.

Publication of Final Guidelines to Implement the FEA Consumer Representation Plan; August 1976.

Full Implementation of Final Plan and Guidelines; August 1976.

Deadline for program offices to submit plans for implementation of the Plan and the Guidelines; August 1976.

Implementation of Computerized Complaint Processing System; October 1976 (Contingent upon Congressional approval of FY 76 funds).

Appendix A.—Analysis of Comments

On November 26, 1975, the Administrator of the Federal Energy Administration published a proposed Consumer Representation Plan which outlined specific mechanisms for increasing public participation in the FEA decision-making process (40 Fed. Reg. 55237). Proposed Guidelines for implementation of the Plan were circulated for public comment in January, 1976.

The Federal Energy Administration participated in regional White House Conferences on Consumer Representation and conducted a formal hearing in Washington on February 25, 1976. In addition, several meetings were held with representatives of consumer and citizen groups and Administrator Zarb and FEA staff in order to obtain public comment on the Plan. More than seventy sets of written comments as well as a number of verbal comments were received and reviewed. The Federal Energy Administration has carefully considered all comments submitted. All written comments are on file with the agency. Many suggestions have been adopted or substantially satisfied by editorial changes in, deletion from, or additions to the Plan or Guidelines for implementing the Plan. The principal revisions and the Agency's responses to the major comments are summarized below.

GENERAL

1. Almost all consumers and consumer groups responding said that the Plan did not outline specific agency actions in sufficient detail or did not commit the agency to specific action. Efforts have been made throughout the Plan to state in greater detail, those actions which will be taken to encourage consumer participation, and language has been clarified in a number of cases where comments suggested clarification was needed.

2. Several comments raised questions on the right of appeal when citizen views have not been adopted. Review procedures are available at present in connection with FEA regulatory programs and are set out in FEA regulations.

3. Consumer organizations indicated that the Plan does not provide any assurance that the views of consumers will be adopted. The purpose of the Plan is to ensure that all citizens have the maximum opportunity to present their views to decision-makers. Final decisions will be made after consideration not only of consumer views—which may be divergent and conflicting—but also of all other information available to the agency.

4. Many comments questioned whether the agency was serious about increasing consumer participation because it did not provide funds for consumer representation or participation in legal proceedings. This concept implies that consumer opinions have not been sought in the early stages of decision-making and that the consumer's only recourse are the courts. Since FEA lacks the legislative authority to provide grants for this purpose and because it requires funds other than those budgeted for FY '76 and '77, this recommendation has not been incorporated in the Plan for immediate implementation. However, the concept is being investigated for possible funding and implementation at a later date.

5. Some consumer groups requested a cost/benefit analysis of the Plan. Data are not currently available to develop such a quantitative analysis. If conceptually possible, a cost/benefit analysis will be conducted in July 1977, one year after the Plan is operational.

6. Representatives of consumer organizations and the Consumer Affairs/Special Impact Advisory Committee proposed several measures for improving consumer participation in the FEA decision-making process. Those measures included establishing a legal advocate, that is an FEA Office of Public Advocate that would represent the consumer interest before FEA; funding consultants to provide technical expertise to public interest organizations and the CA/SI Advisory Committee; and communicating issues to the Committee and the general public as soon as possible. FEA does not believe that these measures can be justified at this time. These measures will be considered in the future if the Consumer Representation Plan proves to be inadequate.

7. Several comments noted that the Plan focused on obtaining consumer opinions on issues but suggested that additional emphasis be given to providing information to the public on pending issues and decisions, and providing feedback to consumer organizations on their recommendations. An attempt has been made to incorporate this suggestion throughout the Plan to ensure that consumers receive information as soon as an issue is identified and that they receive feedback on their recommendations. One specific example is that the Administrator, in his regular meetings with the CA/SI Advisory Committee, will summarize the major issues that are pending before FEA.

8. Several consumer representatives noted that while the proposed Plan stated that no additional funds would be necessary for the implementation of the Plan, they felt that additional funds were necessary in many cases to ensure effective implementation of the Plan. As stated in the proposed Plan, immediate implementation of the FEA Plan will not require funds other than those outlined in the budgets for FY '76 and '77. Where additional funding is being contemplated for future fiscal years, this is noted in the Plan.

ADVISORY COMMITTEES

1. One consumer organization suggested that the CA/SI Advisory Committee be disbanded and that other FEA advisory Committees be restructured to include ¼ to ⅔ *bona fide* consumer representatives. The rationale for this recommendation was that by putting the majority of consumer representatives on one Advisory Committee it would be easy for FEA to isolate and ignore consumer opinions. In considering this comment it was determined that the CA/SI Advisory Committee is the only FEA Advisory Committee which exclusively represents the views of consumers and special impact groups and therefore should not be disbanded. However, Section 1 has been expanded to require, where practicable, ten percent consumer representatives on each FEA Advisory Committee in addition to other categories required. These representatives will be individuals who have the experience, expertise and impartiality to appropriately represents the consumer point of view.

2. As a result of suggestions by consumers, provisions have been added to Section 1 to clarify policies on the composition of the CA/SI Advisory Committee, to increase consumer representation, to outline better mechanisms for seeking committee nominations, to increase coordination among consumer representatives of all FEA Advisory Committees and to ensure an FEA reply to committee requests and recommendations. The Guidelines will specify, in greater detail, the procedures for implementing policies for Advisory Committees outlined in the Plan.

Computer-Oriented Consumer *Complaint/Correspondence System.*

1. The computer-oriented complaint processing system is an attempt to address the criticism raised in the TARP study that FEA does not utilize consumer correspondence for policy analysis nor does a mechanism exist to ensure resolution or follow-up of consumer complaints.

2. The language of Section 2 has been revised to clarify that the socio-economic data which are stored on the computer system will be obtained directly from correspondence, and the public will not be required to fill out additional forms. Language has been added to clarify FEA's intent to have complaints received at the regional, State and local level forwarded to the National office for storage and analysis in the data base. It should be noted that it was never intended that the CA/SI office would process or respond to all consumer complaints. Rather, the complaint processing system will be implemented by the CA/SI office in conjunction with the mail answering functions of the Office of Communications and Public Affairs and other offices. The correspondence unit contemplated for the CA/SI office will be responsible for follow-up on referrals and for analysis of data obtained from consumer correspondence.

3. Many comments criticized the Plan for buck-passing in that complaints cannot always be resolved by FEA. The fact remains that FEA does not in many cases have legislative authority to resolve individual consumer complaints. It is anticipated that data obtained from the system will substantiate policy proposals for dealing with entire classes of consumer complaints.

4. Many comments suggested that the data collected should be available to the public. The Plan has been modified to clarify the fact that aggregated information collected will be available to the public as provided in the Freedom of Information Act.

CONSUMER/CITIZEN CONFERENCE

1. Numerous comments called attention to the fact that Section 3 does not clearly specify that consumer conferences will be coordinated with State Energy Offices and private groups. The language has been modified to reflect this fact.

2. As a result of suggestions by citizens, this section has been expanded to specify that, when possible, consumer conferences will be held in cities other than the ten Federal regional cities and that the broadest possible cross-section of both individual citizens and organizations will be invited to attend.

3. One comment recommended that such conferences be conducted bi-annually and others recommended that workshops be conducted in Hawaii during the off-season and in Alaska to evaluate socio-economic impacts of energy resource development. While these suggestions are excellent, such activities would require resources other than those budgeted for FY '76 and FY '77. However, in programming funds for future projects, the funding of such efforts will be considered.

LIAISON WITH CONSUMER GROUPS

1. Several comments suggested that the CA/SI office hold weekly meetings with representatives of consumer organizations. The CA/SI office has maintained contact with consumers and has scheduled meetings frequently. However, it has found that it is more useful for citizens and representatives of consumer organizations to meet directly with the official who is responsible for a particular policy or program. Both the Plan and the Guidelines were designed to formalize the contact between citizens and the various program offices. The concept of monthly meetings with consumer groups has, however, been incorporated in the functions of the Regional CA/SI Officers since they are the focal point for the solicitation of consumer opinion in the regions.

2. In response to other suggestions, this section has been modified to provide that in each region citizens will be invited to discuss issues of particular concern to consumers. In addition, the communication function of CA/SI Officers with State Energy Offices has been clarified.

In response to comments from consumer representatives this section has also been modified to reflect the fact that this liaison will be used not only to solicit consumer opinions but to provide information and feedback on consumer recommendations.

PUBLIC HEARINGS

1. Numerous groups stressed a need for a more precise definition of "maximum possible notice" and recommended a provision of 90 days to ensure adequate time for consumer groups to develop their position. We favor a comment period which is of sufficient length to permit citizens and consumer organizations to prepare testimony. However, under the recently enacted Energy Policy and Conservation Act which was signed on December 22, 1975, the Congress has in most cases prescribed a time-table for implementation of the various provisions. When rulemakings are proposed the stated advance notice given will be consistent with other applicable statutory requirements and will be extended beyond those requirements, when possible.

2. Many consumer groups asked that hearings be held in cities outside of Washington and in cities outside the ten Federal regional cities. Section 5 has been revised to indicate that hearings will be held in cities in addition to Washington to the maximum extent possible. However, since equal weight is given to written comments, provisions have been incorporated to ensure the broadest solicitation of written testimony.

CONSUMER IMPACT EVALUATION

1. Several coments criticized this section by saying that it only required FEA to do that which is already required by law. Although FEA must prepare consumer impact evaluations as part of Inflationary Impact Evaluations required under Executive Order 11821, the FEA Plan provides for summaries of these evaluations to be prepared for a general audience.

2. As a result of consumer comments, Section 6 has been modified to include a definition of major proposals and to specify the mechanisms for preparation, publication and dissemination of these documents.

MARKETING SURVEYS AND CONSUMER BEHAVIOR RESEARCH

This section has been modified to reflect the FEA effort to obtain information on the beliefs and opinions of consumers regarding energy problems.

CONSUMER EDUCATION

This section has been modified to indicate that FEA will continue its efforts to provide technical information to consumers in understandable language.

INCREASED AVAILABILITY OF DOCUMENTS AND MATERIALS CONTAINING CONSUMER IMPACT EVALUATIONS

In response to criticisms from consumer groups that information is generally available only after decisions are made, an additional section has been added to outline methods for consumers to obtain this information prior to decision-making.

STAFF DEVELOPMENT OF CONSUMER INFORMATION AND ANALYTICAL MATERIALS

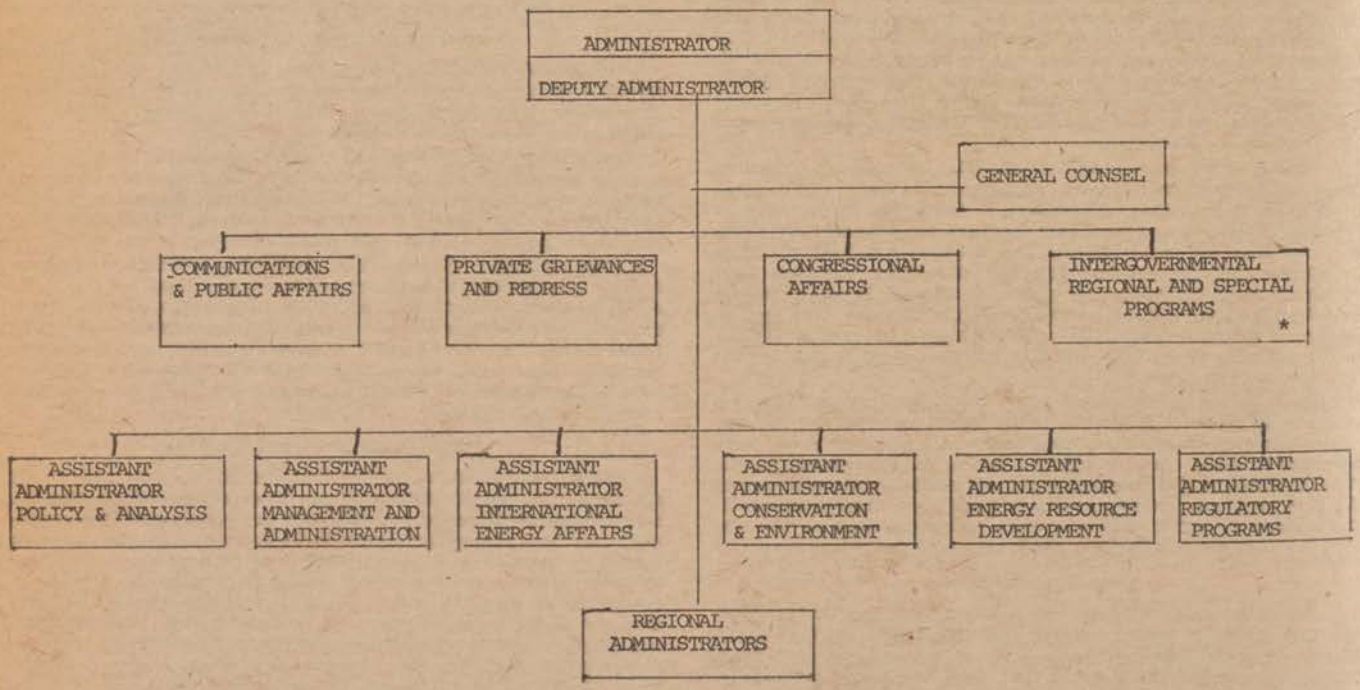
This section has been expanded in response to consumer comments that consumer information and analytical materials are available only after the fact, to indicate that the Guidelines for Implementation of the Plan will set forth specific criteria for the development and dissemination of policy and program information at the earliest practicable time.

EXTERNAL LIAISON

1. Consumer groups unanimously applauded the FEA publication, the *Energy Reporter* and suggested that this document be made available to all citizens who request it even if they are not members of an organized consumer group. It was felt that this was an excellent suggestion and FEA is exploring the possibility of expanding the circulation of the *Energy Reporter*. However, this particular provision was not incorporated into the Plan because immediate implementation cannot be assured.

2. One comment suggested a quarterly publication combining a list of current rulemaking and other administrative proceedings, a list of new FEA publications and announcements of scheduled hearings and workshops. The language of Section V(6) has been revised to include this suggestion.

APPENDIX B.—FEDERAL ENERGY ADMINISTRATION



* Primary Consumer Contact

APPENDIX C.—CONSUMER AFFAIRS/SPECIAL IMPACT CONTACTS

NATIONAL OFFICE

Jerry Penno, Director, Consumer Affairs/Special Impact, Federal Energy Administration, 1200 Pennsylvania Avenue, NW., Washington, DC 20461 (202) 961–6055.

REGIONAL OFFICES

Roberta Walsh, Consumer Affairs/Special Impact Officer, Federal Energy Administration, Region I, 150 Causeway Street, Boston, MA 02114 (617) 223–0504.

Jane Delgado, Consumer Affairs/Special Impact Officer, Federal Energy Administration, Region II, 26 Federal Plaza, New York, N.Y. 10007 (212) 264–0520.

Curtis Morris, Consumer Affairs/Special Impact Officer, Federal Energy Administration, Region III, 1421 Cherry Street, Philadelphia, PA 19102 (215) 597–3880.

Betty Camp, Consumer Affairs/Special Impact Officer, Federal Energy Administration, Region IV, 1655 Peachtree Street, NE, Atlanta, GA 30309 (404) 526–2046.

Cheryl Smith, Consumer Affairs/Special Impact Officer, Federal Energy Administration, Region V, 175 West Jackson Boulevard, Third Floor, Chicago, IL 60604 (312) 353–8998.

Patricia Frazee, Consumer Affairs/Special Impact Officer, Federal Energy Administration, Region VI, 2826 Mockingbird Lane, Dallas, TX 75235 (214) 749–7714.

Jerry Thurston, Consumer Affairs/Special Impact Officer, Federal Energy Administration, Region VI, P.O. Box 2208, 112 East 12th Street, Kansas City, MO 64142 (816) 758–5533.

Richard David, Consumer Affairs/Special Impact Officer, Federal Energy Administration, Region VIII, P.O. Box 26247, 1075 South Yukon Street, Denver, CO 80226 (303) 234–2449.

Robert Laffel, Consumer Affairs/Special Impact Officer, Federal Energy Administration, Region IX, 111 Pine Street, San Francisco, CA 94111 (415) 556–7130.

Ken Pounds, Consumer Affairs/Special Impact Officer, Federal Energy Administration, Region X, 1992 Federal Building, 915 Second Avenue, Seattle, WA 98174, (206) 442–7285.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Consumer Representation Plan

PRIMARY CONSUMER CONTACT

HEW Consumer Representation Coordinator, Office of Consumer Affairs, Department of Health, Education, and Welfare, 330 Independence Ave. SW., Washington, D.C. 20201 (202) 245–1957

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Appendix C—Synopsis of Comment on the Proposed Department of Health, Education, and Welfare Consumer Representation Plan.

I. STATEMENT OF PURPOSE

The purpose of the HEW Consumer Representation Plan (CRP) is to ensure that persons who are affected by HEW regulations, policies, guidelines, program actions or other significant decisions the Department makes are informed and have the opportunity to comment before a decision is reached, and that these views are duly considered in the agency's decisionmaking process. It is intended to more actively solicit consumer opinion and to make the Department's programs more responsive to the consumer. The Plan also is intended to assure that the Department's constituent agencies and their programs are responsive to consumer inquiries and complaints.

In addition, it is the purpose of the Plan to provide HEW agency and program managers with a better understanding of consumer concerns and viewpoints and to make it easier for the public and consumer groups to focus their attention on issues of special and general concern within HEW.

It is a basic premise of the CRP that where the machinery and the techniques for assuring consumer representation already exist they are to be strengthened and that where they do not exist they will be developed.

II. EXECUTIVE SUMMARY

This HEW CRP is different in form and substance from the proposed CRP published for comment in the FEDERAL REGISTER of November 26, 1975. This Plan is reflective of many comments from a broad spectrum of consumers, consumer organizations and spokespersons. The Plan endeavors to maximize consumer involvement in the development of HEW programs and policies. The HEW Office of Consumer Affairs serves as a focal point for consumer complaints and inquiries. The Office of Consumer Affairs has a responsibility to assure that persons who are affected by regulations, policies, guidelines, program actions or other significant decisions are represented in the decisionmaking process in HEW and to encourage and assist all other Federal agencies to assure similar consumer representation.

The Plan includes provision for implementing the following improved procedures for consumer participation:

A. MECHANISMS FOR PUBLIC NOTIFICATION OF HEW DECISIONS

1. *Departmental Regulations Policy.* The head of the responsible agency shall prepare a plan for implementing the statute, court order or administrative mandate requiring development of a regulation of major program significance. A Notice of Intent shall be published and publicized, and comment invited when consideration of important policy issues will be aided by public comment before beginning the drafting of regulations. Agencies may release draft Notices of Proposed Rulemaking as long as all interested parties have equal access. The period allowed for public comment on proposed regulations shall be flexible, i.e., longer than presently customary for controversial regulations. Final regulations shall be reviewed to determine whether they remain necessary and appropriate. A Special Assistant for Regulatory Reform shall assist agencies in implementing the new procedures and in drafting regulations comprehensive to the average citizen. As a demonstration of the principles involved, Medicaid, Higher Education, and Vocational Education regulations are currently being rewritten.

2. *Regional Communication With Consumers.* The Department shall emphasize Regional Office proximity to the level at which HEW programs directly affect consumers. Through its Regional Offices HEW shall use the "Town Meeting" format for discussing the Department's position and the concerns of consumers on major issues that lend themselves to such a format; form Regional Advisory Groups to improve communication on a broad range of issues; establish permanent liaisons with voluntary groups; develop a regional level system to assure feedback on information programs; and develop a more systematic approach to public information planning for rulemaking.

3. *Public Hearings.* HEW shall take affirmative action to encourage maximum consumer participation at public hearings required by regulation or law. In addition to the usual required notice in the FEDERAL REGISTER, advance notice of hearings in simple and understandable language shall be provided by the use of HEW's newsletter, *Consumer News;* press releases for national and local press periodicals in a form suitable for news articles; and mass mailings. In addition, an effort shall be made to schedule hearings at a location and time convenient for consumers, and whenever possible, outside of Washington or Federal Regional Cities.

4. *Consumer Complaint Handling.* The findings and recommendations of the Department's study of complaint handling in the Washington offices of HEW agencies shall be released by September 1, 1976. By November 26, the Secretary shall issue complaint handling guidelines for the Department's agencies. Thereafter, the Office of Consumer Affairs shall review agency complaint handling systems periodically. Consumer complaint handling in HEW agency Regional Offices, State and local governments, industry and voluntary groups shall be the subject of a study to begin in the fall of 1976.

B. HEW MECHANISMS FOR IMPLEMENTING CONSUMER REPRESENTATION PLAN

1. *Consumer Focal Point.* Consumer focal points and sources of additional information about consumer representation activities of the Department and its Regional Offices are listed. In those cases where a consumer is unable to communicate with the appropriate Department agency, the Office of Consumer Affairs serves as a point of entry into the Department by providing a referral service which follows up to assure consumers that a prompt and substantive response is forthcoming.

2. *Accountability.* Responsibility for oversight of implementation of the Department's plan and for program accountability rests with the Office of Consumer Affairs, which will receive a semiannual progress report from each principal operating component and Regional Office and publish an Annual Report to consumers in the FEDERAL REGISTER and *Consumer Register* on HEW activity in consumer representation in the previous Fiscal Year.

3. *Agency Consumer Coordinators.* Each HEW principal operating component and Regional Office shall designate a consumer coordinator to direct the coordination of consumer activities. Coordinators shall work for increased communication between the Department and the consumer community and, working with the Office of Consumer Affairs, increase

the awareness of Departmental personnel of their responsibilities to consumers.

4. *Advisory Committees.* In meeting its responsibility to assure that all Federal agencies consider the interests of consumers, the Department shall (a) review its advisory committees in order to evaluate the scope and effectiveness of consumer representation; and (b) require HEW agencies to publish and publicize vacancies for and appointments of consumer representatives on advisory committees. HEW's Office of Consumer Affairs shall similarly review other Federal agency consumer advisory committees and establish a directory of relevant Federal Advisory Committees, their consumer representatives, and addresses at which consumers can communicate with the consumer representatives.

C. MECHANISMS FOR CONSUMER INFORMATION

1. *Consumer Information Coordination.* The Department's coordinators for consumer information shall assure that all HEW consumer information is easily understandable, widely disseminated, and non-duplicative. Further, an interdepartmental Consumer Education and Information Liaison group shall work to develop standards for and coordination of all Federal consumer information and education.

2. *Communication With Consumers on Issues and Decisions.* Action shall be initiated to maximize dissemination of information on HEW issues and decisions to consumers. In addition to publishing consumer-related standards, regulations and guidelines in the FEDERAL REGISTER, such information shall continue to be compiled in easy-to-read language and distributed to subscribers of *Consumer News* and *Consumer Register*. Also, press releases, testimony, general and specialized mailings, and conferences with consumer representatives will be encouraged.

3. *Feedback on Consumer Comments.* The appropriate Department representative shall provide expeditious and substantive response to consumer comments on a Department activity such as proposed rulemaking or other policy action. Such communications shall be available for public review.

4. *Consumer Conferences.* The Office of Consumer Affairs, in cooperation with other concerned elements of the Office of the Secretary, shall work with Departmental agencies to select appropriate subjects for conferences with consumers designed to increase dialogue between the Department and the consumers it serves. Such meetings at the national and local levels shall provide an informal setting for administrators to receive citizen opinions and ideas for use in policy formulation as well as an opportunity to explain the reasoning behind past decisions.

5. *Liaison with Consumer Groups.* Each HEW program shall develop a system for appropriate consultation and exchange of views with consumers on the development or revision of major policy or programs prior to decisionmaking. Such liaison shall be regularly scheduled at the national and local levels and shall be facilitated by compiling a list of interested consumers and consumer groups in each area.

III. PRIMARY OPERATING UNITS INVOLVED

HEW is a decentralized Department with Regional Offices responsible for implementing and enforcing the policies, programs, and regulations developed by the headquarters agencies. This Plan applies to all elements of the Department. Direct contact with consumers shall be maintained by each HEW agency headquarters office and at each Regional Office. A chart of HEW's organization and a listing of consumer contact points are included in this Plan as Appendices A and B, respectively.

At the headquarters level, consumer contact shall be coordinated by the Director, Office of Consumer Affairs, although all agencies and programs responsible for the preparation of standards, regulations, guidelines, and/or policy shall be required to communicate with consumers and consumer groups.

A. *The Office of Consumer Affairs (OCA)* is part of the Office of the Secretary. The Director, OCA, shall be responsible for coordinating and assisting Department agencies in implementing this Consumer Representation Plan. Each agency of the Department will provide to the Director, OCA, a written semi-annual report on its compliance with the Plan. The Director, OCA, shall make periodic written reports to the Secretary of HEW and to agency administrators on consumer concerns and recommended actions.

The OCA also serves as the staff of the Special Assistant to the President for Consumer Affairs and, as such, is involved in national consumer issues outside the normal jurisdiction of HEW. In meeting this additional responsibility, the Office encourages and assists in the development of new consumer programs, makes recommendations to improve the effectiveness of Federal consumer programs, cooperates with State agencies and voluntary organizations in advancing the interests of consumers, handles consumer complaints, recommends legislation, and encourages productive dialogue and interaction between industry, government and the consumer. In addition, the Office assures that the interests of consumers are presented and considered in a timely manner by the appropriate levels of the Federal Government in the formulation of policies and in the operation of programs that affect the consumer interest.

B. AFFECTED COMPONENTS

All components of HEW will be responsible for the implementation of this Plan. (See Organization Chart, Appendix A.) HEW's major components are:

Office of the Secretary.
Office of Civil Rights.
Office of Human Development.
Public Health Service.
Social Security Administration.
Social and Rehabilitation Service.
Education Division.
Regional Offices.

IV. DEPARTMENTAL PLAN

The HEW Consumer Representation Plan presented below is very different in form and substance from the proposed Plan published for comment in the FEDERAL REGISTER of November 26, 1976. The comments (see Appendix C) on the proposed Plan which the Department received from consumers and consumer groups and other interested parties indicated that consumers were deeply concerned about five areas—the way in which HEW agencies develop regulations, disseminate and receive information, and handle complaints, whether consumers are effectively represented on HEW advisory committees, and the establishment of consumer focal points within agencies. Moreover, most respondents did not feel that these concerns were dealt with adequately in the series of agency plans that made up the proposed HEW Plan. In order to avoid piecemeal solutions to problems consumers experience with all HEW agencies, and to assure that in these major areas consumers shall know what to expect from all components of the Department, the HEW Plan below describes a series of Departmentwide initiatives in these five and related areas. A draft of this Plan was discussed with the members of the Presidentially-appointed Consumer Advisory Council, the President of the Consumer Federation of America, and the Coordinator of Consumer Programs for the Community Nutrition Institute and former President of the Maryland Citizens Consumer Council and Acting Director of the National Consumers League. Suggestions from these reviewers have been incorporated into this Plan.

HEW's agencies are also committed to a variety of specific steps to improve consumer representation and responsiveness to consumers, in addition to implementation of the Departmental policies described below. Examples of these include:

A demonstration of an ombudsman service for consumers experiencing problems with Social Security matters which have not been resolved through normal channels. A pilot project for the demonstration, just begun in Boston, will be followed by additional demonstrations in selected areas in various regions.

The Assistant Secretary for Education shall establish a Consumer Representation Policy Council, consisting of top-level staff from each of the Education Division's primary operating units, to monitor and stimulate consumer participation in education programs and advise the Assistant Secretary on consumer representation policy and operating procedures. The Council shall be staffed and coordinated by a Director of Consumer Representation responsible to the Assistant Secretary. A complete description of consumer response mechanisms in the Education Division is in preparation and will be widely distributed through direct mailings and publication in *American Education*.

Within the Public Health Service the Food and Drug Administration shall seek authority to use trained volunteers to gather con-

sumer points of view on major issues in the regulation of food, drugs and biologics, cosmetics, and medical and radiological devices, and shall establish a time limit for responding to consumer petitions.

Detailed information on HEW agency activities in consumer representation is available from:

HEW Consumer Representation Coordinator, Office of Consumer Affairs, Department of Health, Education, and Welfare, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202/245-1957.

In addition to the activities addressed in this Plan, the Secretary is examining other ways to improve participation by citizens in Departmental decisionmaking and policy development. As these are developed, they shall be proposed for public consideration and comment.

This Plan outlines Department policy for all HEW agencies, to be modified only by the Secretary as the need for modification arises.

A. MECHANISMS FOR OBTAINING CONSUMER'S VIEWS

1. *Departmental Regulations Policy.* A comprehensive body of new policies and procedures for the issuance of regulations has been developed. These policies and procedures apply to the development and issuance of regulations, whether of Department-wide effect or limited to a particular program administered by a single component within the Department, except where authority to issue a category of regulations has been specifically delegated by the Secretary.

Although existing delegations remain in effect, such delegations will continue only to the extent that it is demonstrated that policy review and direction by the Secretary's Office is necessary.

Even in those cases where authority is delegated, the policy set forth in this memorandum should be followed to the extent feasible by officials to whom the delegations have been made.

These procedures will not be applied to regulations for which a Notice of Proposed Rule Making (NPRM) was transmitted to the Office of the Secretary prior to July 25, 1976.

a. The development of specific program regulations is the responsibility of the Assistant Secretary or Principal Operating Component (POC), e.g., Education Division, etc., head who is responsible for the administration of that program. The development of crosscutting or Department-wide regulations will be the responsibility of the appropriate Departmental officials.

b. Except where authority to issue regulations without prior approval of the Secretary has been specifically delegated, no Notices of Intent (NOIs), NPRMs or final rules may be issued or published without the signed approval of the Secretary.

c. Any proposed regulation which the appropriate Assistant Secretary, POC head or the Secretary has determined to be of major program significance may not be executed or published even as a NOI or NPRM until a regulation implementation plan has been submitted to the Secretary by the appropriate Assistant Secretary or POC head and the plan has been approved by the Secretary or the Under Secretary.

The regulation implementation plan instructions concerning form and content will also provide for the use of a modified or abbreviated plan for regulations not having a major program significance.

In approving a regulation implementation plan, the Secretary or the Under Secretary may authorize the Assistant Secretary or the POC head to proceed with the development and issuance of a NOI, NPRM or a final rule without obtaining further specific authorization from the Secretary for that regulation or set thereof.

d. A NOI should be published, and the implementation plan should so provide, whenever the Department's consideration of important policy issues will be aided by public comment prior to publication of a NPRM. The NOI mechanism should be liberally used to permit interested outside groups and other members of the public to have an impact on the decisionmaking process at an early stage. Therefore, implementation plans that fail to provide for a NOI will be critically reviewed.

e. In addition to publication in the FEDERAL REGISTER, other channels of communication with the public will be liberally used in order to reach as many interested individuals and organizations as possible.

f. Public hearings to permit the Department to receive information and views on proposed regulations should be held either before or after the publication of NPRMs if it appears that such hearings will aid the Department in developing its position on any of the issues involved. Advance notice of any such hearings will be published either as part of a NOI or separately.

g. Each NOI and NPRM shall set forth the major issues to be addressed in the development of the regulation and the major alternatives that the Department is considering to resolve those issues. If there is more than one Assistant Secretary or POC head having a direct jurisdictional interest in a particular regulation and if any of them have submitted to the Secretary different views concerning the major issues, these views should be stated in the NOI or NPRM along with the source of the views.

h. In the spirit of openness, a draft regulation may be disclosed upon request prior to its publication in proposed form. If, however, the availability of the draft has not already been stated in a public notice, such a notice will be published before the disclosure is made. In addition to publication, steps should be taken to make copies of the draft directly available to interested groups and individuals, including the appropriate committees and Members of Congress.

i. Each NOI and NPRM will give the name, position, address and telephone number of a contact person within the Department who will be available to answer inquiries and receive information concerning the proposed regulation.

j. Except as otherwise authorized or required by the Administrative Procedure Act and the rules and regulations of the Department, the comment period provided for in NPRMs will be at least 45 days unless the regulation implementation plan has justified the lesser period of 30 days and the plan has been approved by the Secretary or the Under Secretary.

k. Each NOI and the preamble to each NPRM and final regulation will be written in common everyday English understandable to the general public.

l. Whenever, as a result of public comment or for any other person, it appears to the appropriate Assistant Secretary or POC head that a major provision in a proposed regulation should be significantly changed before being published as a final rule, the regulations should be carefully reviewed to determine whether the NPRM fairly permitted public comment on the issue embodied in the change. If it further appears that the public did not have a fair opportunity to comment on the matter which is the subject of the change, a new NPRM should be published inviting such comment.

m. Each final regulation sent to the Secretary for approval should be accompanied by a seprate written plan for monitoring and reviewing the effect of the regulation after its publication. This plan should state the dates by which the results of the regulation will be reviewed.

n. A long-range plan for reviewing regulations shall be developed. The plan shall include:

Categories or criteria for selecting regulations for reconsideration.
Means for comparing results with intent.
Plans for an automatic review system for regulations.

o. The Secretary has designated a Special Assistant for Regulatory Reform within his Office to assist agencies with the implementation of the new regulatory policies and to make recommendations to him on regulatory issues. In addition, the Special Assistant shall assist HEW agencies to draft regulations comprehensible to the average citizen. To demonstrate this principle, the Special Assistant for Regulatory Reform, in cooperation with the Office of the Federal Register and the responsible HEW agencies, has begun work on a model project to rewrite the portions of HEW regulations in the *Code of Federal Regulations* which pertain to the Medicaid, Higher Education, and Vocational Education programs. The purpose of this project is to demonstrate that regulations can be written so as to be generally understandable and still meet Congressional intent and legal requirements.

2. *Consumer Participation at the Regional Level.* All HEW agencies conduct extensive information programs, primarily centralized in Washington. In response to the need, cited by many comments on the proposed HEW Consumer Representation Plan, for improvement in information exchange at levels more accessible to consumers in order to facilitate more effective consumer representation, HEW plans a series of initiatives at the regional level. These steps are intended to take advantage of Regional Office proximity to the actual level at which HEW programs affect individuals, to local media,

and to local consumers and consumer groups. Under the overall coordination of the Office of the Secretary, the HEW Regional Offices shall:

Use the "Town Meeting" format to discuss issues that lend themselves to this format.

Form advisory groups at the regional level, reporting to the Regional Director, with appropriate citizen representation from each state, to form regular information channels on a broad range of issues.

Establish permanent liaisons with voluntary groups at the regional level, to augment existing liaison with such groups at the national level, as a vehicle for improving citizens' information and participation in decisions on HEW-related issues.

Develop regional systems to assure appropriate feedback on the effectiveness of Departmental information programs.

Develop, with consumer consultation, a more systematic approach to public information regarding proposed and existing regulations to parallel the administrative actions described under the reform of HEW regulations procedures above.

3. *Public Hearings.* Public hearings shall be held whenever they are required by regulation or law. An inherent problem in this process has been providing adequate public notice. Hereafter, HEW agencies shall actively solicit consumer opinion. Methods to be used shall include mass mailings to groups with interest in the particular issue, maximum advance notice of public hearings in the FEDERAL REGISTER and HEW's *Consumer News*, and press releases for national and local press and periodicals in a form suitable for news articles. Straightforward language shall be used in the text of notices and when the information is particularly technical, nontechnical explanations will appear at the beginning of the notice. When possible, hearings will be held outside of Washington and the ten Federal Regional cities. In planning for public hearings, the need for public advertising and bilingual notices shall be considered. Additionally, locations selected shall be accessible to public transportaiton and when possible, meeting times should be scheduled during lunch hours and in the evening so interested consumers may better avail themselves of the opportunity to attend. Since equal weight is give to written testimony in the analysis of comments, HEW agencies shall conduct a special mailings to ensure that interested citizens are informed of proceedings. Follow-up shall also be taken by providing participants the resulting end product (regulations, guidelines, policy determinations, etc.) of the public hearings as well as a summary analysis of the comments received.

4. *Consumer Complaint Handling.* Indications of widespread deficiencies in the handling of consumer complaints by HEW and other Departments and agencies, led the Department to contract with an independent consultant firm (Technical Assistance Research Programs, Inc.) to conduct a systematic study of consumer complaint handling by 22 Federal agencies. Phase I of the study covered 15 agencies which regulate the marketplace or have a significant role in the development of marketplace regulations policy. Two HEW components were included in Phase I, the Food and Drug Administration and the Office of Consumer Affairs. For the purpose of the study, however, each was considered a separate agency.

The Food and Drug Administration handles complaints in three different offices depending on the nature of the complaint and the deficiencies the study noted varied among the three. The overall recommendations for FDA of Phase I of the study were that response time and response quality needed continuing monitoring and evaluation and that complaints should be a factor in agency policy development. Recommended for the Office of Consumer Affairs were improved correspondence control and referral followup procedures and better systems for policy analysis based on complaint data. Both the Food and Drug Administration and the Office of Consumer Affairs are implementing the study's recommendations.

Phase II of the study covers seven service-oriented agencies and includes HEW's Social and Rehabilitation Service, Social Security Administration, and Public Health Service (other than the Food and Drug Administration). The study examines agencies' correspondence control and tracking procedures, determines the promptness and responsiveness of replies, and assesses follow-up procedures. In addition a survey of a representative sample of consumers will be made to learn how they presently go about getting complaints resolved and their familiarity with Federal and other complaint- resolving agencies.

The Phase II findings and recommendations will be completed and made public by September 1, 1976. By November 26, the Secretary will issue complaint handling guidelines for the Department's agencies. These guidelines will be a Secretarial directive and will include standards for correspondence control and tracking, response time, responsiveness of replies, and follow-up.

Until the Secretary issues complaint handling guidelines for HEW, complaints by consumers, consumer groups, or other members of the public with respect to any Departmental matter may be addressed either to the agency involved or to the Director, Office of Consumer Affairs. All such complaints will be carefully considered and promptly answered. The Director, OCA, will analyze complaints received on major issues and render advice with respect to appropriate changes in Department policies and programs.

Phase III and IV of the complaint study will examine the manner in which State and local governments, industry, voluntary groups, and Federal field offices handle consumer complaints. Phase IV will also contain a summary of conclusions and recommendations.

B. HEW MECHANISMS FOR IMPEMENTING THE CONSUMER REPRESENTATION PLAN

1. *Consumer Focal Point.* A significant number of comments on HEW's proposed Plan stressed the need of consumers for a 'focal point," an office or individual responsible for assuring that consumers' inquiries, complaints and proposals receive prompt and substantive responses. Within HEW the Office of Consumer Affairs, whose Director reports to the Secretary, has this responsibility. OCA provides a referral service in order to direct particular concerns to the Federal, state or local government office with legal authority to deal with the problem, or to the manufacturer, retailer or industry complaint-handling mechanism involved, with, in all cases, a copy requested for the Office of Consumer Affairs of the response to the consumer. This provides the office with information on consumer problems and the adequacy of government and industry response to them which, when aggregated, indicates areas in need of Departmental policy review, regulatory action, or legislation.

Consumer inquiries, complaints or suggestions regarding HEW programs or requests for further information about HEW consumer representation activities may be adressed to the Office of Consumer Affairs.

Within OCA, the Director shall designate a single consumer focal point to ensure that adequate consumer representation is provided for all HEW-related activities. OCA will continue to act as a consumer focal point for the entire Department, but time can sometimes be saved by contacting the office listed for the appropriate region, if known (See Appendix B). Referrals may be necessary, but the Offices listed are responsible for assuring a prompt and substantive response in any event.

2. *Accountability.* The Office of Consumer Affairs, with the cooperation of the Assistant Secretary for Public Affairs and the Special Assistant to the Secretary for External Affairs, shall be responsible for program accountability and shall provide oversight of all elements in the implementation of the Plan. It will publish in the FEDERAL REGISTER and *Consumer Register* an Annual Report to Consumers, describing how each element of the Department offered opportunities for consumer representation during the previous Fiscal Year. Consumer comments on the Report will be encouraged in order to increase the Department's responsiveness.

Each HEW principal operating component and Regional Office shall have responsibility for implementing this Plan and for developing its own consumer representation program, and shall submit a written report semi-annually to the Office of Consumer Affairs of its compliance with this Plan.

3. *Agency Consumer Coordinators.* The Head of each HEW principal operating component and each HEW Regional Director shall designate a consumer coordinator who, in this capacity, shall report directly to him or her and shall work with the Office of Consumer Affairs. The person so designated will assist the Administrator in coordination of the agency's activities as they relate to consumer interests. There shall be regularly scheduled meetings of these consumer coordinators with the Director, Office of Consumer Affairs, the Assistant Secretary for Public Affairs, and the Special Assistant to the Secretary for External Affairs. The consumer coordinators shall:

a. Act as a means of channeling significant agency and Regional Office information to consumers and consumer groups;

b. Recommend programs for open communication with consumer leaders and organizations;

c. Increase awareness among all personnel of their responsibility to serve consumers;

d. Reflect consumer viewpoints in the formulation of agency and regional office policies that affect consumers.

The Coordinator shall also take steps to see that consumer groups and representatives have access to officials of the Department with responsibility for the subject matter involved in a particular problem or problem of interest to those groups or representatives.

4. *Advisory Committees.* There are currently over 300 HEW advisory committees in addition to the Consumer Advisory Council to the Director of the Office of Consumer Affairs. Most of the committees act in a technical review capacity. A significant number of them, however, give policy advice on various program matters.

Most of those who commented on consumer representation on HEW advisory committees felt that not all HEW advisory committees which should number consumer representatives among their members do so, or that in many cases so-called consumer representatives lack qualifications to adequately represent consumers. In response to these comments the Department will take the following steps.

Conduct a review, in consultation with consumer representatives, of HEW advisory committees to:

1. Determine whether persons serving as consumer representatives on committees which have legislatively or administratively mandated consumer representation do represent the target groups with which these programs are concerned;

2. Identify additional advisory committees to which consumer representatives could appropriately and legally be appointed;

3. Assess the degree to which consumer representatives are oriented by the agencies they are serving to the agencies' responsibilities, programs and powers;

4. Publish for comment the findings and recommendations of the review by March 15, 1977.

Require HEW agencies to:

1. Assure that advisory committees, whose composition is not prescribed by law and which deal with matters having significant impact on consumers, shall have consumer representation.

2. Systematically publicize in a timely manner scheduled vacancies for consumer representatives on advisory committees, including publication in the FEDERAL REGISTER, release to the media, mailings to consumer groups, etc., and to make a request for nominations part of the vacancy announcement;

3. Publicize in the same way appointments of oconsumer representatives to advisory committees, and mailing addresses at which consumers can communicate with them;

4. Include descriptions of representatives' qualifications in such announcements.

In addition, the Department's Office of Consumer Affairs which has by Executive Order responsibility for assuring that the interests of consumers are considered by all Federal agencies, shall conduct a review identical to the HEW review described above of the advisory committees of all Executive Branch Departments and agencies and work with the Departments and agencies to similarly publicize consumer representative vacancies, appointments and mailing addresses. The Office of Consumer Affairs will also compile and publish a directory of relevant Federal advisory committees and their consumer representatives and addresses at which consumers can send them suggestions, etc. This directory will be available by March 15, 1977. In 1978 the directory will be expanded to include information on consumer representatives' qualifications.

C. MECHANISMS FOR CONSUMER INFORMATION DISSEMINATION

In order to contribute to the agencies planning or to forthcoming regulations, the consumer must have information available on agencies' programs and goals. To provide this information, HEW's Consumer Representation Plan calls for increasing communication to consumers on issues and decisions, and providing feedback to consumers on their comments.

1. *Consumer Information Coordination.* The Secretary has designated the Director, Office of Consumer Affairs, and the Assistant Secretary for Public Affairs Coordinators for Consumer Information. The Coordinators shall:

Review HEW consumer information to assure that it is in plain English.

Assure that HEW agencies utilize all appropriate media, including print, radio, television, posters and exhibits, to assure wide dissemination of HEW consumer information.

In cooperation with the Office of the Federal Register, develop a system for coordinating summaries and digests of HEW *Federal Register* notices to assure their comprehensibility and dissemination to consumers.

Coordinate consumer information publications and radio and television productions of HEW agencies with other Federal agencies to avoid duplication of effort and funds.

Because the Office of Consumer Affairs has, by Executive Order, responsibility for coordinating the consumer programs of all Federal agencies, the President has directed the Director, Office of Consumer Affairs, to provide the consumer information coordinative services listed above for all Federal agencies.

Consequently:

(1) OCA shall designate a coordinator of Federal consumer information and

(2) An interdepartmental Consumer Education and Information Liaison group has been established to provide a forum for interagency communication about and setting of standards for Federal consumer information and education.

The OCA coordinator will ensure that all Federal consumer information is easily understandable, widely disseminated and non-duplicative.

2. *Communication to Consumers on Issues and Decisions.* Information on issues and decisions of HEW will be provided to consumers through the following channels:

FEDERAL REGISTER
Consumer News and *Consumer Register*
Conferences
Press Releases
Speech and Testimony
Informal meetings with consumer groups
General mailings and media coverage
Mailings tailored to specialized groups
Hearings

All proposed and final standards, regulations and guidelines are published in the FEDERAL REGISTER. Copies will be prepared and distributed to known interested parties. Copies will also be sent to parties who contributed to development of the regulations. HEW agencies maintain mailing lists and distribute press releases on significant Department decisions and findings. Each release includes the name and telephone number of an individual to contact for further information. Press conferences are held on significant Department actions and findings. The public and the press are notified of such conferences and afforded an opportunity for discussion through a question-and-answer session following the conferences.

There are a number of news reporting services which are kept current on HEW activities. Through them a large segment of the concerned public is kept informed of actions and activities of the Department. Moreover, selected consumer-related standards, regulations and guidelines are summarized in non-technical, understandable language in the OCA *Consumer News* or *Consumer Register*.

3. *Feedback on Consumer Comments.* When a consumer or group has contributed technical data in support of a proposed rulemaking or policy on has raised a technical point, a staff member of the office preparing the rulemaking or policy will respond to the consumer, either by mail or telephone to deliver HEW's response. When appropriate, a meeting is set up to provide and obtain further information.

Each major comment related to a proposed Department action is analyzed, and a response is prepared. Depending on the nature of the letter, this response will acknowledge the letter, provide an indication of concurrence with the commenter, or explain the rationale for the rejection of the comment. A report summarizing such comments will be prepared and made available to the public. In addition the preamble to the final regulation shall provide a summary of major comments and the Department's response. Copies of the final regulations, including, such summaries are sent to individuals who have requested or provided information.

4. *Consumer Conferences.* The Office of Consumer Affairs has found consumer conferences to be extremely useful in obtaining citizen opinions and ideas for use in policy formulation. Therefore, OCA shall continue to work with other agencies to identify other areas which would be appropriate subjects for future consumer conferences.

Since consumer conferences can be used for general and informational purposes as well as specific program planning, each of the Department's programs may conduct consumer conferences of its own or participate in relevant consumer conferences arranged by other programs or private organizations. When planning conferences, efforts shall be made to balance points of view and to invite diverse consumer groups.

In the planning of consumer conferences at the Regional level, HEW Regional Offices shall coordinate with consumer groups to provide for maximum of exchange of ideas and information and to obtain opinions on HEW policies and programs from all interested consumer groups and citizens. In scheduling these conferences, efforts shall be made to hold the meetings in locations and at times which are convenient for a broad section of the public to attend. The conferences shall be open to the public. Special mailings shall be used to notify consumers and special interest groups.

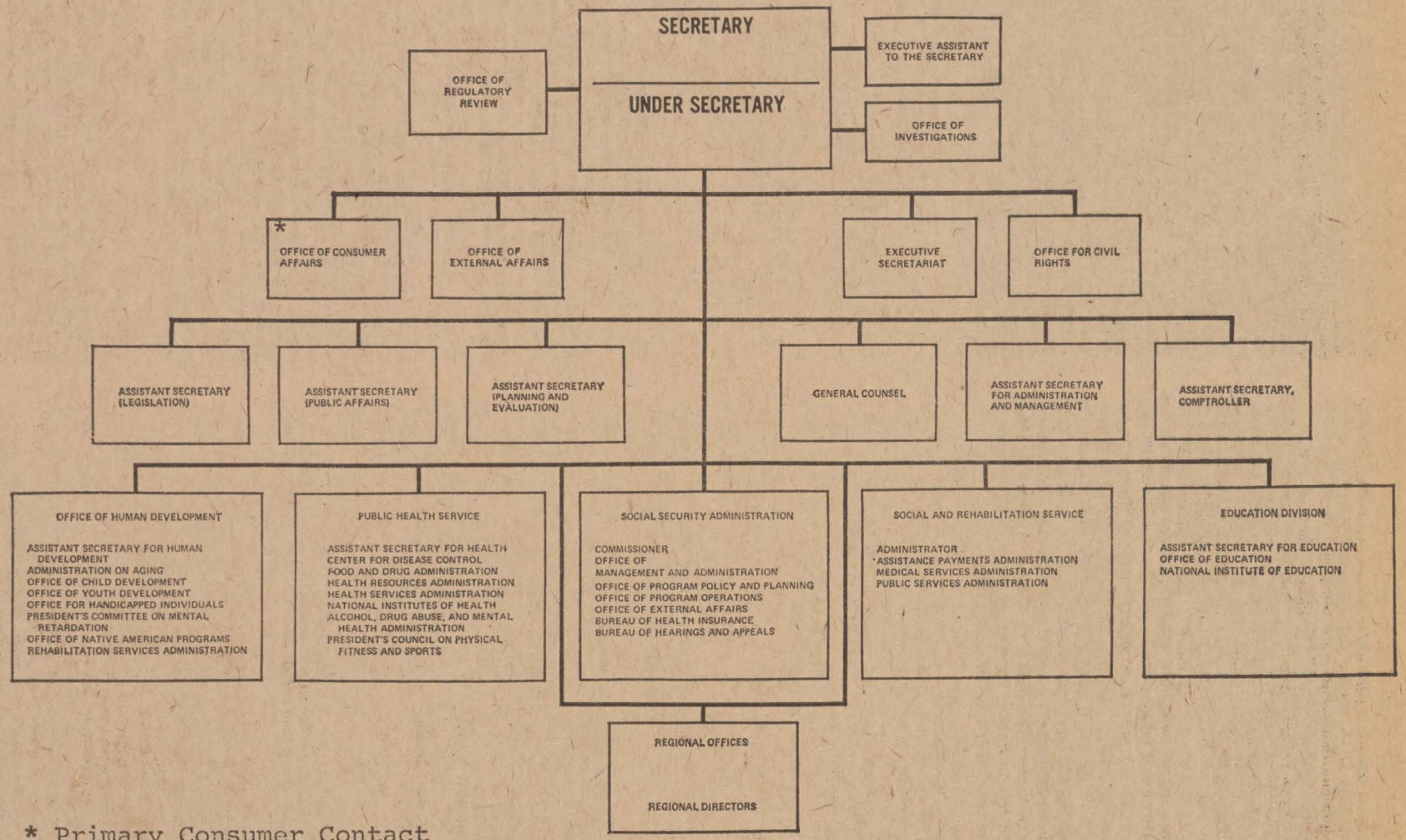
The responsible HEW official, program or Regional Office will provide feedback to citizens on their recommendations.

5. *Liaison With Consumer Groups.* HEW will maintain regular contacts with consumer groups at both the national and regional levels.

Working with the Special Assistant to the Secretary for External Affairs and the Office of Consumer Affairs, each HEW program shall develop standing arrangements that provide to the maximum extent practicable for appropriate consultation and exchange of views prior to decision-making with interested persons and consumer organizations on the development or revision of major policies or programs. Such arrangements shall include maintenance of a list of persons and organizations who have indicated interest in participating in the decisionmaking process and contact with them before issues are resolved. The HEW Office of Consumer Affairs and the Special Assistant to the Secretary for External Affairs shall assist as necessary in compiling such lists. In addition, each HEW agency shall regularize its contact with consumer groups by periodically scheduling meetings to permit consumers to present their views on major program or policy actions. Appropriate program policy or technical information for such meetings will be provided to interested individuals. HEW shall continue to provide to the public the rationale for such decisions.

APPENDIX A—HEW ORGANIZATION CHART

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE



* Primary Consumer Contact

APPENDIX B—CONSUMER CONTACT POINTS

Office of Consumer Affairs, Department of Health, Education, and Welfare, Washington, D.C. 20201, 202/245–6164.
Consumer representation information—202/245–1957.

	Regional Focal Points
Region I. — Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.	Edward F. O'Connell, Special Assistant to the Regional Director, Department of Health, Education, and Welfare, John Fitzgerald Kennedy Federal Building, Government Center, Boston, Massachusetts 02203; (617) 233–5084.
Region II.—New York, New Jersey, Puerto Rico, Virgin Islands.	Robert B. O'Connell, Assistant Regional Director for Public Affairs, Department of Health, Education, and Welfare, Federal Building, 26 Federal Plaza, New York, N.Y. 10007; (212) 264–3620.
Region III.—Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia.	Joseph Yarbrough, Assistant Regional Director for Intergovernmental Affairs, Department of Health, Education, and Welfare, 3535 Market St., Philadelphia, Pa. 19101; (215) 596–6476.
Region IV.—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.	Walter D. Branch, ARD/Intergovernmental Affairs, Department of Health, Education, and Welfare, 50 Seventh St. NE., Atlanta, Ga. 30323; (404) 285–3873.
Region V.—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.	Lee Feldman, ARD/Public Affairs, Department of Health, Education, and Welfare, 300 South Wacker Dr., Chicago, Ill. 60606; (312) 353–5164.
Region VI.—Arkansas, Louisiana, New Mexico, Oklahoma, Texas.	William Van Rush, Jr., ARD/Public Affairs, Department of Health, Education, and Welfare, 1114 Commerce St., Dallas, Tex. 75202; (214) 729–2436.
Region VII.—Iowa, Kansas, Missouri, Nebraska.	Richard Wall, Public Information Specialist, Office of Public Affairs, Department of Health, Education, and Welfare, 601 East 12th St., Kansas City, Mo. 64106; (816) 758–3438.
Region VIII. — Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.	Carl Coleman, ARD/Public Affairs, Department of Health, Education, and Welfare, 1961 Stout St., Denver, Colo. 80202; (303) 327–2694.
Region IX.—Arizona, California, Hawaii, Nevada, Guam, Trust Territory of the Pacific Islands, American Samoa.	Robert Fouts, ARD/Public Affairs, Department of Health, Education, and Welfare, Federal Office Building, 50 Fulton St., San Francisco, Calif. 94102; (415) 556–2246.
Region X.—Alaska, Idaho, Oregon, Washington.	Richard Grant, ARD/Intergovernmental Affairs, Department of Health, Education, and Welfare, Arcade Plaza, 1321 Second Ave., Seattle, Wash. 98101; (206) 399–1290.

APPENDIX C—SYNOPSIS OF PUBLIC COMMENTS ON THE PROPOSED DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE CONSUMER REPRESENTATION PLAN

A proposed HEW Consumer Representation Plan (CRP) was published with the CRPs of all 17 Federal Executive Agencies and Departments in the FEDERAL REGISTER of November 26, 1975. Interested persons were invited to comment. Regional CRP conferences in nine cities across the country were held during January 1976 to further inform consumers and to stimulate response. In addition, a formal hearing on the HEW Consumer Representation Plan was held in Washington on February 27, in which interested parties testified. Individuals were given until March 1, 1976, to file written comments. Two hundred and seventy-five written comments were received in addition to oral comments delivered at the plenary sessions of the nine conferences and the HEW workshops at the Kansas City, Philadelphia and Los Angeles conferences. Both oral and written comments are categorized below. The oral comments are not quantified because the poor intelligibility of one of the tapes made quantification arbitrary.

The comment summarized below has been carefully considered in developing the Department's final plan. The major comments, in fact, resulted in the development of an entirely new plan. Comments regarding the proposed plans of HEW agencies have also been considered, although not in every case adopted, by the agencies in their planning of consumer representation activities. The Departmental initiatives in the HEW plan are, of course, binding on HEW agencies.

GENERAL COMMENTS: MOST OR ALL HEW AGENCIES

Fifty-six respondents mentioned problems pertaining to the general distribution of consumer information on regulatory and other policy issues, the need for consumer education to assure effective participation in the HEW decisionmaking process, and training for participation in technical areas such as health planning or education councils. Thirty-four written comments stressed the need for consumer involvement in proposed rulemaking before publication in the FEDERAL REGISTER. Six of these also proposed that substantive comments receive a substantive, analytic response, either as part of the final regulation or in correspondence, and one of these suggested a mechanism to monitor the quality of analysis. The need for consumer critique of the implementation of plans which affect the consumer at the local level was mentioned in eight statements. Eighteen cited the lack of an identifiable person or focal point to whom consumers could address themselves and expect a prompt, substantive response. Regular meetings with consumer representatives was the recommendation of six respondents, five of them emphasizing meetings at the local level. Five comments requested that the CRPs be made mandatory rather than discretionary, with enforcement capability, i.e., that sanctions be applied to agencies that disregard the CRP.

Consumer representatives on Federal councils or panels were the subject of 17 comments. Fourteen requested a specific definition of the term "consumer" which would accurately reflect the general citizenry as opposed to professionals or what were considered to be "vested interests." Additionally, nine statements addressed the absence or insufficient consideration of the handicapped in all HEW CRPs. Consumer participation in the planning process was the subject of 19 comments. Essentially, these requested representation at all levels of planning and policy development for low-income groups, minorities, and those persons considered to be educationally disadvantaged. Six comments suggested financial compensation for "volunteer" consumer representatives, pointing out that professionals and industry representatives receive income from thir employers in addition to compensation for travel and other expenses when serving as advisors to the Federal Government. One comment addressed the issue of the need for in-service human relations training for Federal employees who deal with, or plan for, consumers. Another comment complained of vague and ambiguous language in the CRP and suggested greater specificity and clarity.

The absence of complaint procedures or systems in the plan was cited by seven comments and the omission of Consumer Representation Plans for the Offices of Human Development and Civil Rights was criticized by five. Another comment made by four representatives of consumer groups was that none of the CRPs provide consumers with specific new legal rights or appeal processes. One respondent suggested that all plans should show the functions and responsibilities of each agency and the offices within it.

Three respondents objected to the format or location of the regional conferences. Criticized were the lack of germaneness of many consumer comments, inadequate enforcement of the three-minute limit on consumer statements, and the fact that consumers who were not located near the cities in which regional conferences were held could not afford to attend them.

Oral comments made at regional CRP conference plenary sessions and at HEW workshops in Kansas City, Philadelphia and Los Angeles reflected almost identical consumer concerns. Consumer review before regulations are proposed, and the need for consumer representation at all levels of decisionmaking were the dominant issues. The need for clear, specific information, easily available to the consumer was the next most frequent comment. The absence of a focal point, the need for consumer representation enforcement powers, representation of minorities and the handicapped, and consumer training for participation on advisory councils were also prominently mentioned. The need for in-service training for Federal officials so that they would be more sensitive to consumer concerns also surfaced, and a separate consumer agency received support. Conference formats and locations received criticism similar to that in the written comments. In addition, several participants felt that conferences should not have been held during working hours. While some participants criticized the conferences as wastes of resources that could have been used for

more effective means of consumer representation, others liked what several termed the "town meeting" approach and felt that HEW should use it more extensively.

At the formal hearing held in Washington, D.C., February 27, 1976, seven persons submitted testimony to the Hearing Clerk. The need for dissemination of information, consumer input at the local level and participation of advisory councils were the substance of the comments. Several professional organizations offered their services in achieving these goals. Prompt response to consumer complaints was also targeted as a desirable addition to all plans.

SPECIFIC: OFFICE OF CONSUMER AFFAIRS (OCA)

Of 13 written comments which related to the OCA, six applied to the need for State and local government consumer officials and consumer group representatives to participate in Federal consumer policy decisions. Information dissemination, the need for OCA to present both sides of disputed issues in information it distributes, "feedback" and follow-up were also stressed. One respondent pointed out that OCA should implement the recommendations of the study of complaint handling it had commissioned which included a complete system for processing complaints. This respondent urged that OCA alter its staffing and budgeting pattern so that a greater ratio of personnel with policy development capability could broaden the office's activity in representing consumer interests before Federal agencies. Other comments suggested that either OCA or an appointed Ombudsman serve as a well-identified source of information and redress for consumers. Seven comments urged that OCA assume a lead role in simplifying the language of Federal regulations. Two comments proposed that OCA serve as a clearinghouse for nominations of consumer representatives to Federal advisory councils and related comments proposed that OCA increase the number of disadvantaged and minority consummer representatives on such councils.

SPECIFIC: SOCIAL SECURITY ADMINISTRATION (SSA)

Fourteen comments concerned the need for provision in SSA's CRP for adequate and direct distribution of information to the elderly at the neighborhood level. Respondents pinpointed exceptions to SSA's general rules as information which would be of particular value and was unavailable to most. The need for consultation with consumers prior to drafting regulatory proposals and the need for clear and simple language in SSA regulations and other communications was stressed. One consumer group stated that SSA avoids comments on broad areas of policy by such devices as inclusion in the Claims Manual, instead of publication in the FEDERAL REGISTER, with no opportunity for consumer participation. Inclusion of the elderly on proposed panels or advisory councils was the subject of four comments. Two respondents said that the agency does not have a good consumer complaint resolution mechanism in the plan, with one complaining of waiting periods of up to six months for answers as being not unusual.

The plenary sessions and workshops reflected the same concerns. Additionally, one individual said the SSA plan represented no change in the agency's regard for constitutional rights of clients or the impact of regulations on clients. Another statement asked that the plan include provision of bilingual employees to assist clients for whom English is a second language.

At the formal hearing in Washington on February 27, 1976, testimony was offered which endorsed the concept of an Ombudsman for SSA, provided that person was truly representative of consumer (beneficiary) interests, and proposed a consumer advisory group composed solely of beneficiaries.

SPECIFIC: SOCIAL AND REHABILITATION SERVICE (SRS)

Public assistance recepients' problems with food stamps were the subject of four comments, suggesting a need for better coordination between SRS and the Food and Nutrition Service of the Department of Agriculture. Two respondents said the plan did not address the question of the "borderline poor" as it applied to housing and other benefits for which they just miss being eligible. Many respondents requested that they be placed on SRS's mailing list for advance notices of proposed rulemaking and related materials. Also one comment said the SRS plan represented no change and two other comments questioned SRS's sincerity about consumer representation and its commitment to adopting the views of consumers on proposed rules. One consumer group said that SRS short-circuits the rulemaking process by issuance of action transmittals which attempt to change agency policy, or by publishing Final Rules without having first published proposed rules for comment, when such haste is not required. Similar comments came out of the plenary sessions and workshops.

SPECIFIC: EDUCATION DIVISION (E)

Four comments spoke to consumer representation on advisory groups or councils, specifically the inclusion of elementary school educators, students, and broad community representation which would comprehend "potential" consumers. The plan itself was said by two respondents to be "exhortive" rather than action-oriented, and the vague language precluded agency accountability for proposed change. A complaint mechanism with adequate follow-up by employees who were charged with being "responsive" was suggested in three statements.

The National Institute of Education plan was cited because it did not provide for solicitation of consumer views prior to decisions on grants. Also, more information from NIE to consumers was requested.

At the plenary sessions and workshops, respondents said the plan did not provide for a focal point for consumer inquiries or complaints; and that regulations were full of "red tape" which discouraged full use of available assistance. Several representatives of such groups requested that professional educators and their associations be considered "consumers." Other comments suggested that consumers be specifically defined and that communication between consumers on one hand and planners and regulators on the other hand be improved. Improvements in consumer participation in developing minority education programs, the appointment of a non-Federal coordinator to monitor the implementation of the Education Division's CRP, and the making of consumer representation the controlling factor in the basic planning of E programs were the substance of the remaining oral comments.

At the Washington hearing, a detailed statement spoke to the question of professional consumer educator representation in all facets of Part F, Consumer and Homemaking, of the Vocational Education Act, including legislation under consideration, reaching target groups, participation in national conferences, avoidance of duplicative services, funding, and selection of advisory boards or councils.

SPECIFIC: PUBLIC HEALTH SERVICE (PHS)

The Public Health Service's Consumer Representation Plan elicited five written comments relating to the National Health Planning and Resource Development Act (P. L. 93-641). The qualifications of the consumer representatives were a basic issue in all comments. Recommended were the election or appointment of an Ombudsman and neighborhood meetings at which a consensus opinion would be reached and related to the health service agency board as the official consumer position on any issue. Training and education for specific consumer functions under the law were suggested, in addition to a network system of consumer information for better communication, and consumer evaluation of the implementation of the program. One comment on patients' rights suggested that fragmentation within the bureaucracy resulted in application of regulations that was "limiting, unconsultative and even abusive" to patients' rights. Two comments requested additional detail on the consumer representation programs and plans of the Alcohol, Drug Abuse, and Mental Health Administration. Two respondents criticized the Office of Nursing Home Affairs for including nursing home operators in its definition of "consumer."

The plenary sessions and workshops also generated comments on P. L. 93-641. In substance, they requested greater consumer input in selection of consumer representatives, with a clearer definition of consumer, regulations reduced to simple English, feedback as the law is implemented, and financial reimbursement for consumers who participate. A relative lack of concern for nursing home patients as compared to nursing home operators was also a subject of oral comment.

SPECIFIC: OFFICE OF HUMAN DEVELOPMENT (HD)

Fourteen comments related to the elderly. These were in part not relevant to procedures for consumer representation, but complained of the absence of provisions within the HEW CRP to improve services to the aged, such as transportation and congregate feeding. Quite relevant, however, were comments urging a CRP for HD, and more consumer participation in developing proposed regulations before they are published, local or neighborhood sources of information on assistance, benefits and referrals for the aged, as well as a focal point for aged consumer contact with HEW.

At the plenary sessions and workshops a number of comments cited the elderly as a group whose needs are not well understood by Federal planners, as a reservoir of talent for volunteer service on councils and commissions, and as consumers who are not consulted prior to or after the implementation of regulations or laws which

affect their lives. The need for child representation in the decision-making process of programs which affect children was also cited.

SPECIFIC: REGULATORY REVIEW AND REFORM

Thirteen written comments were received. One asked for review of duplication by HEW agencies because of program regulatory requirements. Another suggested that all agencies adopt the proposed HEW regulation which would permit a waiver when two or more regulations taken together are in conflict. Several suggested that regulations published in the FEDERAL REGISTER be more succinctly stated, with less "bureaucratese." One comment proposed that regulations should be written so that needed services to a particular segment of society were not precluded because of the narrow range of conditions for eligibility. Increased availability of information, the use of simple language, and agency responsibility to represent and protect consumer interests were the subjects of the balance of comments received. The workshops and plenary sessions elicited similar comments. Comments were made regarding the unnecessary "red tape" of regulations, "obtuse" language, absence of consumer input into proposed regulations, and changes without consumer notification or review. Designated agency contacts were suggested for individuals or groups who had particular needs relating to the regulatory process. These contact persons would be responsible for general dissemination of information to the public on regulations which had direct impact on consumers.

OTHER COMMENTS

Thirty-seven written comments were judged to have no application to the proposed plan because they were beyond the plan's scope. These included employment requests, offering of services from the private sector, 12 suggestions that an independent consumer agency be established, and 12 complaints which pertained to individual difficulties with HEW agencies. The latter were referred for appropriate action, with a request for a copy of responses to the Office of Consumer Affairs.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Consumer Representation Plan

ASSISTANT SECRETARY FOR CONSUMER AFFAIRS AND REGULATORY FUNCTIONS

U.S. Department of Housing and Urban Development, Suite 4100, Washington, D.C. 20410, Telephone: (202) 755-8702.

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I. STATEMENT OF PURPOSE

HUD initially specified four primary national goals for Fiscal Year 1976: promoting viable communities, providing decent housing, achieving equal opportunity, and effectively coping with natural disasters. Against a background of increasing HUD regulatory and consumer responsibilities, however, HUD added a significant additional goal:

TO ASSURE THAT THE BASIC RIGHTS OF CONSUMERS ARE CONSIDERED AND RESPECTED IN ALL HOUSING AND COMMUNITY DEVELOPMENT ACTIVITIES.

This goal encompasses three objectives:

To develop, promulgate, and, to the extent appropriate, assist in the enforcement of meaningful guidelines, standards and regulations aimed at protecting consumers against abuses in housing and community development.

To assure, to the extent appropriate, that effective remedies are available to consumers.

To provide for effective communication between HUD and consumers on issues of policy, and to respond in a timely fashion to consumer complaints and information requests.

The purpose of the HUD Consumer Representation Plan is to insure that the goals and objectives outlined here are met.

II. EXECUTIVE SUMMARY

One of the five primary HUD national goals is "to assure that the basic rights of consumers are considered and respected in all housing and community development activities." To achieve this goal, HUD policy-makers and program managers will design their programs with an understanding of consumer needs. That understanding requires that the Department will afford consumers a reasonable and timely opportunity to communicate their views to decision-makers, provide access to relevant background information, provide access to an informed representative within each Department program for a prompt response to their questions and complaints and have a knowledgeable advocate within the agency to represent their views in the decision-making process.

Affirmative steps have been planned or taken to assure that consumer needs are understood, considered and acted upon by HUD policy-makers. This plan identifies the actions being planned and taken.

1. HUD has consolidated its consumer and regulatory functions under an Assistant Secretary for Consumer Affairs and Regulatory Functions. This Office will provide a clear access point for consumers, represent consumer interests in Departmental policy-making, act to see that consumer complaints are satisfactorily handled, and seek ways to improve HUD communications with consumers. The Office has regulatory responsibilities in areas dealing with interstate land sales, mobile home construction standards and real estate settlement procedures; and services as coordinator for HUD programs and policies for the elderly, handicapped and for Indian affairs. The Office is part of the Departmental issuance system, with authority to nonconcur and appeal. Consumer Affairs and Regulatory Functions (CARF) also has the authority to seek review of program decisions by the Secretary and Under Secretary.

2. Each Program Assistant Secretary and Regional Administrator has designated a consumer affairs representative who is responsible for seeing that consumer inquiries are handled.

3. Use of the advance notice of proposed rule making has been increased, regular meetings between HUD officials and consumer groups will be planned, and a consumer communications network has been prepared. All program offices will actively solicit consumer and consumer interest group comments on pending policy decisions.

4. HUD is establishing a consumer complaint and inquiry handling system to expedite handling consumer complaints and information requests. A reporting system is also being developed to provide management with information as to the nature, frequency, and subject of the consumer complaints received.

CARF has the authority to monitor consumer complaint appeals processes of program areas and to refer to the Secretary the need for an improved appeals system where required.

5. HUD is improving and expanding its consumer education materials, with consumer participation.

6. HUD is establishing a procedure for issuing consumer information news releases, and for providing information on decisions of consumer interest to the General Services Administration and the Department of Health, Education, and Welfare for use in their consumer publications.

7. Consumer representation in Department decisions will be built from the field level up, through HUD Area, Insuring and Regional Offices. Each Field Office will initiate a consumer review of its operations under its own plan and within guidelines established by CARF. A CARF field presence will be derived through allocation of field staff time to CARF-designated tasks.

III. PRIMARY OPERATING UNITS INVOLVED

Although the recently created Office of Consumer Affairs and Regulatory Functions (CARF) provides a focal point for consumer representation, all HUD programs with a direct or indirect impact upon consumers will participate in steps to ensure responsiveness to the consumer interests.

A. OFFICE OF CONSUMER AFFAIRS AND REGULATORY FUNCTIONS (CARF)

On February 27, 1976, the Secretary of Housing and Urban Development established the Office of Consumer Affairs and Regulatory Functions (CARF), to be headed by an Assistant Secretary. On May 6, 1976, the Assistant Secretary was officially delegated the "primary responsibility for key regulatory functions and consumer affairs." This delegation stated:

The Assistant Secretary will monitor policy issuances governing the operation of the various programs administered by the Department to identify and represent the consumer interest involved, act as liaison between the Department and public and private organizations concerned with consumer matters, and generally assure that consumer's interests are respected in the decision-making processes of the Department. Specifically, the Assistant Secretary has responsibility for developing policy initiatives that (a) create mechanisms to ensure that consumer views are factored into Departmental decisions, and (b) result in recommendations to the Department based on an analysis of recurring consumer concerns. The Assistant Secretary shall also have responsibility for Indian

programs and policies and the continuation of functions currently being carried out by the Assistant to the Secretary for Programs for the Elderly and the Handicapped.

Prior to the establishment of CARF, a series of steps had been taken within the Department in an effort to achieve the fifth national goal and in response to President Ford's policy initiative on consumer concerns in the Executive Branch.

These steps included:

(1) Seeking public views (oral and written) on a November, 1975, publication of the Department's Consumer Representation Plan. The Department received over 150 comments on the Plan.

(2) Establishing a Task Force on implementation of the Proposed Departmental Consumer Representation Plan. Established by Secretary Hills, December, 1975, that Task Force prepared for the establishment of CARF, monitored implementation of other actions within the Department, and served as the principal liaison to the public on issues relating to the Plan.

(3) Requesting (by the Secretary) each principal staff officer and Regional Administrator to designate someone from his/her staff to be responsible for coordinating consumer affairs activities. Emphasis was placed on improving the manner in which consumer complaints were currently handled. By January 6, 1976, all offices had designated a consumer affairs representative.

(4) Participating in January and February, 1976, in a series of White House Conferences on the Consumer Representation Plans.

(5) Taking action to increase consumer comments on pending policy through advanced rule-making and undertaking a concerted effort to improve the quality of consumer information materials.

B. OTHER HUD OFFICES

All of the Department's programs either directly or indirectly affect consumers by improving the houses and communities in which they live. The HUD Consumer Representation Plan therefore extends to all offices of the Department, to include:

Office of the Secretary.
Fair Housing and Equal Opportunity.
Housing.
Federal Insurance Administration.
Policy Development and Research.
New Communities.
Community Planning and Development.
Federal Disaster Administration.
Field Offices.

IV. DEPARTMENTAL PLAN

A. AUTHORITY AND RESPONSIBILITY OF CARF

The Department has established the Office of the Assistant Secretary for Consumer Affairs and Regulatory Functions (CARF) to consolidate consumer and regulatory concerns which had previously been delegated throughout the Department. CARF is headed by an Assistant Secretary who is nominated by the President and confirmed by the Senate. The Assistant Secretary also reports to Congress on matters of budget and substantive programs.

The Assistant Secretary for CARF is one of seven HUD Assistant Secretaries, and reports directly to the Secretary. In this way issues of consumer importance can be brought directly to the Secretary's attention, and the other Assistant Secretaries can be dealt with on an equal footing, thereby elevating consumer concerns to the highest level of Departmental decision-making.

A field presence for CARF will be created through the allocation of field staff time to specific tasks identified by CARF and performed under the direct supervision of the field office director. Examples of the types of tasks to be performed at field office level are:

Regulatory functions: Chair meetings, assist in drafting of voluntary standards; Consumer affairs: Take public views on issues through conferences, chair ad hoc consumer meetings, public hearings, solicit written comments.

CARF's ability to "assure that the basic rights of consumers are considered and respected" rests in large part in the power of the Office to nonconcur and appeal.

CARF has become part of the issuance system, a process intended to complement the systematic involvement of consumers in HUD decision-making. As a full-fledged partner in this system, CARF reviews every proposed and final regulation, issuance, handbook, possible legislative enactment, as to which a Departmental or program position is being formulated.

B. DEFINITION AND RIGHTS OF HUD'S CONSUMERS

A question often asked which deserves some discussion is: "Who are consumers?" HUD deals with a variety of entities in many different ways and the list can include the apartment dweller, the mortgage banker, the broker, the public housing tenant, the city government, and so forth. For purpurposesof clarification, however, this Plan refers to the organizations (e.g., lending institutions) which are the intermediaries between HUD and the ultimate consumer as "clients". But to make that distinction is not to answer the question: Who should receive the attention and services of the Office of Consumer Affairs and Regulatory Functions? At least theoretically, CARF should be available to serve all "Consumers" and "clients". But given limited resources, CARF must establish priorities. First priority will be given to serving "the ultimate consumers", i.e., any person who lives under a roof and may have need for the products and services of the Department of Housing and Urban Development.

The next question to be answered is: What are those consumers' rights vis-à-vis HUD? The Department Consumer Representation Plan provides that ultimate consumers have a right to greater access to the HUD decision-making process. To ensure this, HUD will guarantee: (a) meaningful consumer involvement in decision-making, (b) responsive consumer complaint handling, and (c) informed citizenry on housing and community development matters.

The plan recognizes that consumer involvement requires that basis needs be met:

That HUD policy-makers and program managers design their policies and procedures with a clear understanding of the needs of the intended beneficiaries, including consumer and constituent industry groups.

That consumers, as well as other client groups, have reasonable and timely opportunities to communicate their views to program designers and operators.

That consumers have access to relevant background materials, in order to provide informed comments on proposed policies and regulations.

That knowledgeable advocates of consumer affairs, within HUD, be solicited for views on highly technical issues.

That consumers contact someone in HUD for a timely answer to their questions or a prompt response to their complaints.

In meeting these requirements CARF will take the following steps:

Identify the issues requiring public viewpoints.

Analyze the issues including the options being considered and the impact of the various options.

Determine whose views will be sought (target groups, national sample, etc.).

Determine the methods for ascertaining public views and actually ascertain the views.

Analyze the public positions and prepare documents to be forwarded to the decision-makers with CARF recommendations.

C. ISSUE IDENTIFICATION AND ANALYSIS

CARF will develop criteria for identifying issues which will form the subject of public discussion; the development of these criteria will be open to consumer involvement.

The types of issues selected will be those having the most wide-ranging effect on the ultimate consumer. Since HUD's mandate is to provide a decent home and a suitable living environment for every American family, barriers to achieving those goals are proper subjects for discussion. Examples of such barriers are:

Possible inequities in the marketplace, lack of due process; insufficient community responsiveness; lack of programs designed to meet effectively the needs of particular groups.

Once the issues are identified, CARF will use policy analysts/researchers to gather from a variety of sources—HUD, consumer groups, industry—as much information as is available to describe the issue, what is known about options available to solve the problems identified, and what is known about the possible impact of the various options on the public.

Issue analysis is crucial to meaningful public participation, as it provides to the public the same quality of information, in an understandable format and language, that is available to the decision-maker.

D. CONSUMER NETWORK

CARF is developing a communications network that will facilitate Department contact with representative populations. The network consists of public interest groups, national and local consumer organizations, public housing authorities, State housing finance agencies, State community affairs offices and State and local consumer affairs offices. The Department has determined that an effective source of consumer advice and counsel can be derived from building up consumer-Department communications from the field level.

A field network will be developed at each HUD Area, Insuring and Regional Office level. It will encompass ad hoc panels of consumers for discussions of issues and problems; and mailing lists, developed by each field office with support from CARF as necessary, consisting of active consumer-oriented housing groups, consumer and consumer groups frequently in contact with HUD, industry groups, and State and local agency representatives interested in housing issues.

E. CONSUMER REPRESENTATION IN POLICY AND PROGRAM DECISIONS

The means for engaging public response will depend upon the issue under question. Similarly, the issue will determine whether the general population will be approached for view-taking or a sample of the established network.

HUD shall increase its use of the Advance Notice of Proposed Rule Making, by publishing in the FEDERAL REGISTER for public comment prior to formulating regulations. Program officers will use the network mailing lists to solicit comment on proposed policies and programs. On some issues, random surveys will be used to seek views, supplemented by other public communications (e.g., press releases, radio spots). On still other issues, heads of client agencies will be questioned, to ascertain the nature of the concerns of those they serve.

HUD program officials will periodically meet with consumer groups under the auspices of the Assistant Secretary for Consumer Affairs and Regulatory Functions. Access will be achieved both through the use of group and individual meetings in response to specific consumer concerns. CARF will hold open monthly meetings with interested members of the public to discuss its operations. These meetings will be announced in the FEDERAL REGISTER and by press release and direct notification to consumer groups.

Throughout the Department, consumer representation will be achieved by other operating offices in the following ways:

Public Hearings: This mode of involvement could be used to some extent as in the past with prepared texts submitted in advance, and summaries presented to an audience by members of the public. The traditional mode could be altered by having the hearings conducted by community leaders in the community and the transcripts on video tapes forwarded to the decision-makers at HUD.

Ad hoc consumer panels: Convened to discuss specific topics.

Conferences: Face-to-face conferences where certain participants present papers on a particular issue with respondent panels structured to critique the papers. The product of the entire effort would be forwarded to HUD.

One basic vehicle for seeking views would be solicitation of written comments on an issue paper. In order to make this less burdensome on the public, short answer forms might be used. (True/false, checklists, etc.)

Surveys: Written public opinion surveys have been used for over 40 years, but only recently have they been extensively employed as a short-term feedback mechanism.

Resource Centers: Identify all HUD offices and a sample of public libraries as a resource center to provide and solicit information. The public would be encouraged to go to the HUD offices not only with problems but also with ideas which might be gathered in a variety of ways.

Goals programs: Recruit local consumer organizations to develop statements of housing and community development goals and objectives. Allow a larger audience (including industry and government) to analyze the real world problems of the proposals then return to the local organization for rebuttal.

Citizen Evaluations: Identify citizen teams to evaluate the effectiveness of program operations and content, with a further mandate to recommend changes.

Public Access TV: Since 1972, the FCC has required all cable TV companies to provide public access channels in their system. HUD can suggest topics for citizen group discussion and dramatization with planned audience feedback designed to get views.

CARF bears the responsibility to ensure that such public views, once taken, are transmitted to the decision-maker, along with a recommendation and the basis for that recommendation.

CARF's authority further provides a direct appeal to the Under Secretary and Secretary to review a decision of the program officials in light of the public's views.

One comment made in the field hearings on the proposed Consumer Representation Plans was that the plans did not provide for consumer feedback on the operation of the agency. It was contended that agencies would be more responsive if they allowed for a definite and regular system of public commenting on agency operation. It is CARF's intention that each HUD office initiate a consumer review. The manner in which these reviews would be conducted would be decided by each field office within guidelines established by the Office of Consumer Affairs and Regulatory Functions.

F. IMPROVING CONSUMER COMPLAINT HANDLING

In late 1974, a special study of the HUD complaint system was conducted (TARP study) under contract from the Office of Consumer Affairs, HEW. At the same time, analysis of consumer complaint handling in both HUD Central and Field Offices was undertaken by the Special Assistant to the Secretary for Consumer Affairs. Both studies found that there was no focal point in Field or Central Offices for the effective coordination of consumer complaint handling. Both found a general failure to utilize complaints to identify programmatic problems, and an absence of systematic compilation of complaint data. With few exceptions, while there was a system of tracking "controlled" consumer complaints often there were no effective quality controls of the responses, assurances of timeliness, or evaluations of system performance. Since many of the questions or complaints received by Central Office were local in nature, close to 80 percent were sent out to the field for response, and no follow-up was taken.

Ultimate responsibility for successful implementation of the consumer complaint handling system rests with the program and field office. CARF, however, assumes the responsibility to monitor and coordinate the efficient operation of the Department-wide consumer complaint handling system by pursuing the following management objectives:

(1) Statistics Reporting: CARF will be the focal point in the Department for collecting and analysis of consumer complaint data necessary for problem identification, policy recommendations, and, where applicable, program recognition of a job well done.

(2) Evaluation: CARF will evaluate the effectiveness of the consumer complaint handling system to assure that responses are of sufficient speed and quality as to give reasonable promise of substantial progress toward meeting the needs of consumers. Recommendations for improvements will be sought from consumers and derived from analysis of backlogged complaints, response time, and random sampling of correspondence for quality control.

(3) Policy Analysis: Written reports from the Consumer Complaint Coordinators and CARF evaluative data will be consolidated and distributed by CARF on a regular basis to Assistant Secretaries and Regional Administrators to provide feedback and serve as a basis for assessing the impact of policies and programs on the consuming public.

(4) Accountability: CARF, in consultation with consumer complaint coordinators, will develop written guidelines to establish policy of and responsibility for responding to complaints—written, telephone, or personal visits. Such guidelines will be available for review by the consuming public.

(5) Opportunity for Review: In instances where there is not a process whereby a decision can be reviewed at a higher level than that of the initial decision,[1] a consumer can request

[1] CARF will assist offices to develop review procedures on request.

the Office of Consumer Affairs and Regulatory Functions to review a previous Departmental decision.

The types of complaints which might be expected to be part of such a review process are those where it appears that the individual's complaint may not have been handled properly because the action taken by HUD appeared to be:

Based on a mistake of law or fact;

Based on inadequate grounds;

Accomplished by inadequate statement of reasons.

When the request for review is received, CARF may respond in one of four ways:

(1) Take no other action and inform complainant of that decision where the following exists:

(a) A remedy already exists;

(b) The problem has been solved;

(c) The complaint is trivial, frivolous, vexatious or is not made in good faith; or

(2) Refer the request for review to the office answering the original complaint with request for clarification, reconsideration; or

(3) Refer the request for review and action to a higher program official than the one handling the original complaint; or

(4) Request the Under Secretary/Secretary to review the matter after having exhausted all other avenues with the Department. The decision to refer the matter will only be made where:

It represents a class of cases where the issue is a policy matter and a proper response requires a change in policy; or

The complaint is indicative of a serious failure in program operations severely impacting upon consumers.

G. CONSUMER INFORMATION AND EDUCATION

The effective communication of information is a key to consumer participation in government decision-making and to consumer protection.

CARF will work to assure that the Department communicates effectively by:

Reviewing all documents published by HUD for readability and sensitivity to consumer issues. Where a document does not meet these criteria, CARF will nonconcur in its distribution.

Providing technical assistance to program areas for preparing and revising educational materials.

Preparing documents for public distribution on subjects of general interest where a need has been determined.

In addition, another major undertaking of the Office, in conjunction with HUD's Office of Public Affairs, other offices within the Department and consumer and industry groups, will be to write a basic handbook on housing that will assist any member of the public who wants to become involved in the decision-making process at HUD. Examples of the kinds of information to be covered in the handbook are:

Systems of financing housing;

The relationship of housing starts to the economy;

The role and function of secondary mortgage market;

HUD's methods for getting public views.

HUD will seek consumer involvement in the preparation of its consumer oriented publications. In improving its distribution mechanism for these materials, the Department will work through consumer and community organizations, and the media, as well as ensuring that all Field Offices will be supplied with adequate inventory for display and dissemination.

HUD will also seek to expand the list of its publications in GSA Index of Selected Federal Publications of Consumer Interest, and will cooperate with the GSA public opinion polls of consumer literature.

HUD will establish a formal procedure for public dissemination of information on consumer related actions through the Office of Public Affairs in the form of consumer news releases. The CARF communications network (discussed at part D of this section) will be used for this purpose, as well. In addition, short descriptions of such actions will be provided to the Office of Consumer Affairs at the Department of Health, Education and Welfare for use in its publication, *Consumer News*.

H. POLICY AND PROGRAM OFFICES WITHIN CARF

The Departmental Advisors on Indian Policy and Programs and Elderly and Handicapped Programs each serve an external constituency that has identifiable, common concerns to which HUD must respond in a coherent, consistent way. These offices thus serve as focal points for housing and community development matters as they relate to these constituent groups. In order to operate effectively, both offices must do the following:

Maintain through direct personal coordination with appropriate Departmental offices, full knowledge of all activities and developments within HUD which affect the constituent group;

Review continually, through the use of task forces and other means, the adequacy of HUD's policies and procedures involving the constituent group, making such recommendations as may be appropriate;

Participate in HUD budgetary or policy meetings involving matters directly affecting the constituent group;

Consult on the preparation of policy statements affecting the constituent group delivered by Departmental spokespersons;

Maintain an open dialogue with the leaders of major constituent group organizations, explaining Departmental programs and policies, receiving their thoughts concerning pertinent HUD activities and anticipating problems and/or criticisms.

The type of specific activities involved are:

Elderly and Handicapped Program

Participate on the Task Force to develop proposed HUD policy for disabled.

Participate in selection process for sponsors of housing for the elderly (Section 202).

Coordinate activities of Elderly/Handicapped Coordinators in the field.

Develop informational brochures of interest to elderly and handicapped.

Indian Programs and Policy

Determine what are the barriers to efficient, prompt processing of Indian housing by:

a. Surveying representatives of Indian communities to determine their perceptions of how the processing can be improved.

b. In order to determine Federal officials' perceptions of the barriers, meeting with representatives of HUD's Offices of Housing and General Counsel, representatives of area and regional offices, Bureau of Indian Affairs and Indian Health Service.

Develop training guidelines for Indian Housing Authority personnel

Improve information available to Indian people on homebuying, home ownership, and rentals

Develop a strategy for dealing with housing and community development problems of urban Indians

Develop improved and innovative design and construction plans for Indian housing.

I. PROGRAM DEVELOPMENT AND EVALUATION

There is no guaranteed "most effective" way of insuring that consumers' views are considered in decision-making and there is no guaranteed "most effective" way of stimulating private sector solutions to problems which may become subject to regulatory action. This makes it important for CARF not only to put in place carefully conceived approaches to program delivery but also to create a means by which it can evaluate these approaches. Therefore, there shall be constant testing of alternative methods of accomplishing the goals in order to be prepared to supplement or supplant the current systems—whichever is required—and to maximize CARF's effectiveness.

Demonstration projects are also potentially useful research and evaluation tools for the policy and program Offices. One of the underlying reasons for having separate Offices to deal with the policies of HUD that affect Indians, elderly and handicapped is that each of these groups has distinct concerns with regard to HUD activities, which are, in some way, unique to the group and yet which are common to the group members. Thus, the concept of a demonstration project may well be a viable one to adopt to support policy recommendations for these groups. As an example, the activities in support of the objective, to insure the development of the total Indian community, includes the development of demonstration projects in conjunction with relevant Federal agencies, which respond to the needs of entire communities. Also, the proposal to fund a housing exchange between elderly

people who are "overhoused" in older homes in the secondary ring of the city with younger, growing families who are crowded into smaller homes in the center city is conceived as a demonstration and falls within the rationale developed above.

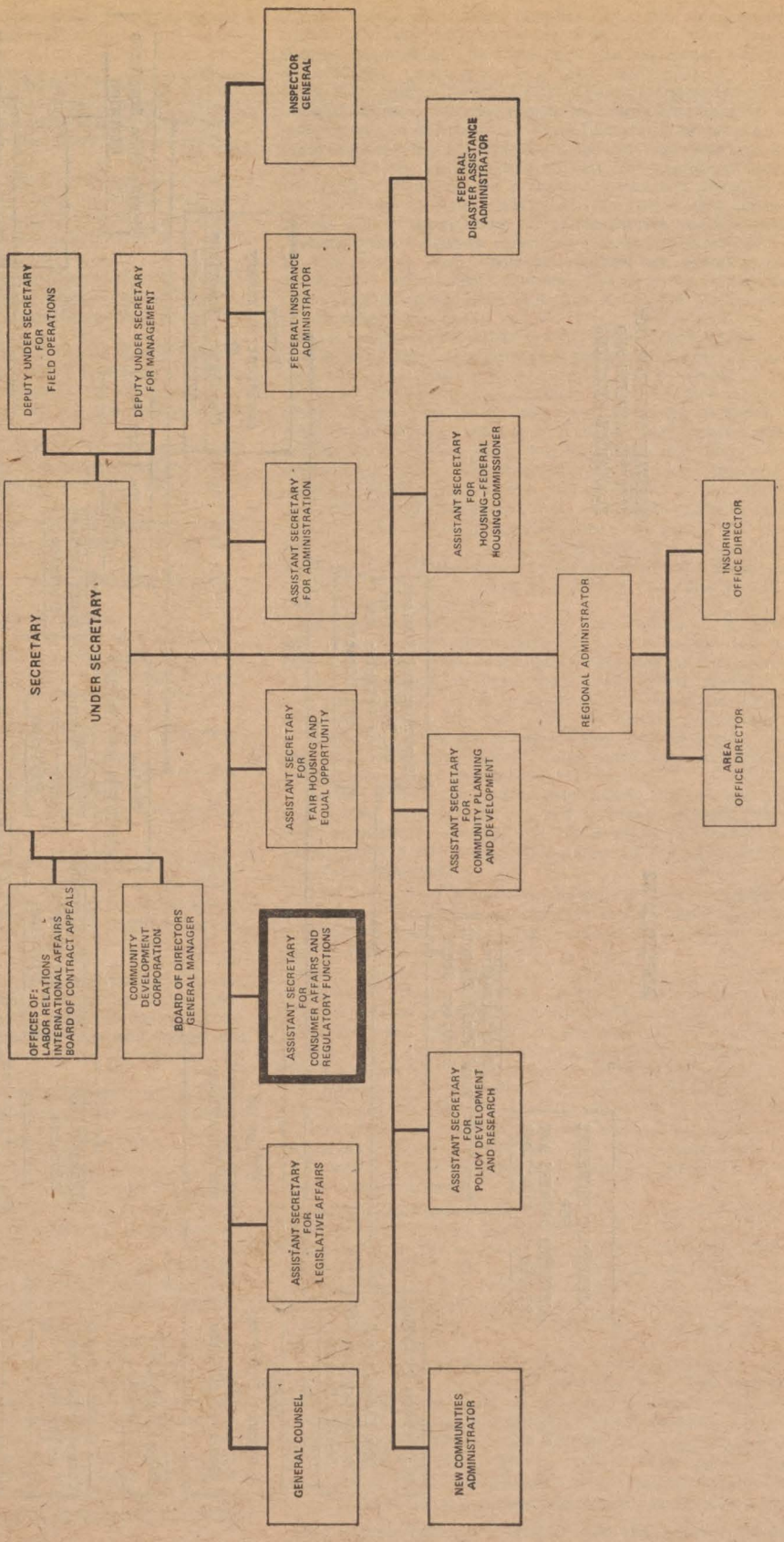
Consumer Affairs will draw upon research and evaluation projects to support their activities.

Research to define the scope of the communication problems (i.e., whom to reach, how to reach them, when to reach them) from HUD to the consumer is also essential to the effective implementation of the communications network.

Examining existing alternative solutions to the problems of involving consumers in the decision-making process should be an integral part of the activities of consumer programs. Although such "testing" will be done, to some extent, based on present knowledge, research efforts could support these activities by enabling Consumer Affairs to look systematically at those aspects of participation that it deems most problematic. For instance, Consumer Affairs may believe it necessary to see whether a number of small group meetings on a given policy issue produces more "satisfactory" participation than a public meeting with the representatives of participants assured. And they may wish, further, to consider whether the type of issue has any bearing on the effectiveness of each forum.

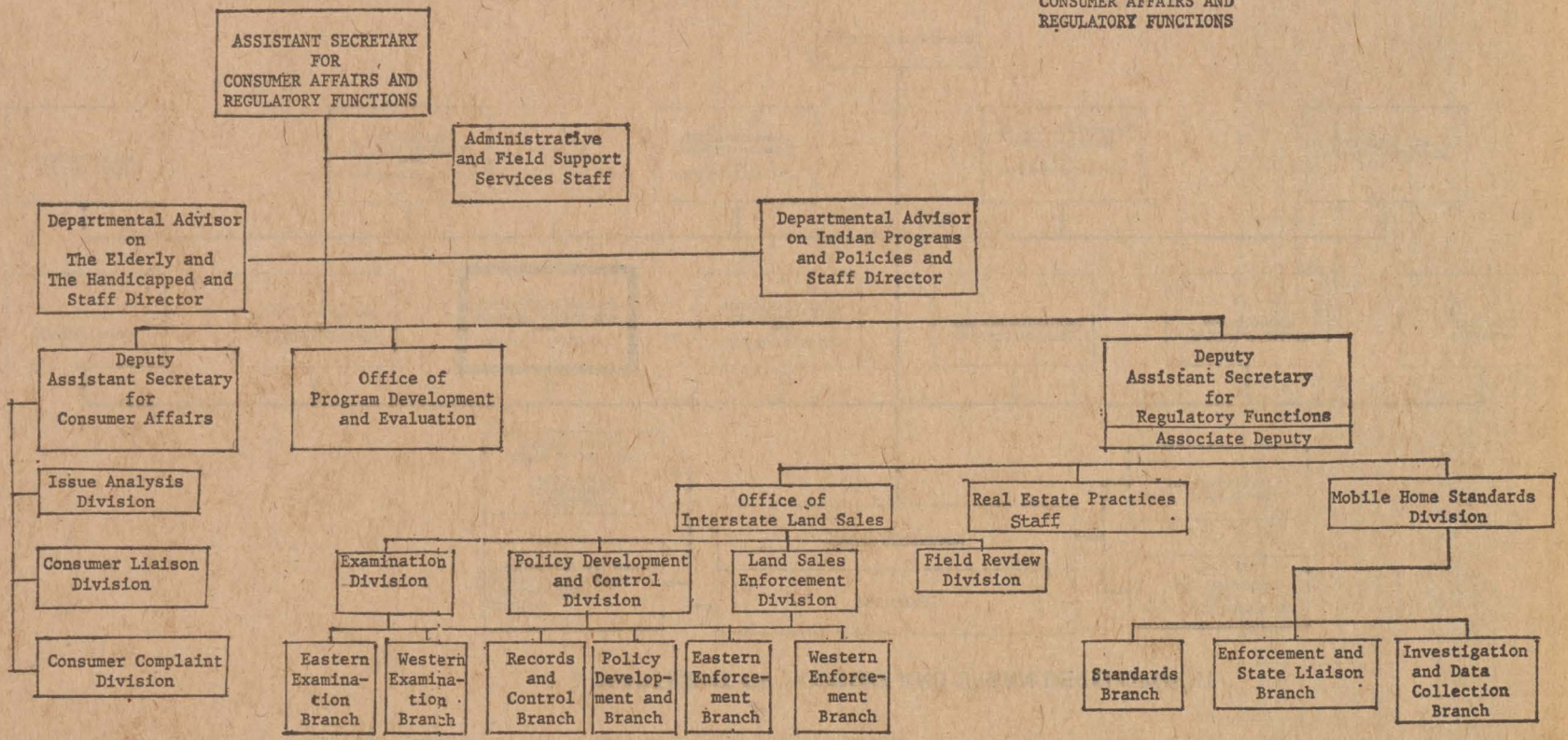
Demonstration projects that are easily replicated could serve as a useful tool to Consumer Affairs, should it desire to establish independent mechanisms for consumer participation at the local level. For instance, "model" sounding boards could be set up in several cities and smaller communities to demonstrate how consumer views can be made to count. There could and should be built into such a demonstration a coordinating mechanism that will ensure that the results of the demonstration do not go unnoticed.

APPENDIX A1


DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECRETARY
UNDER SECRETARY
DEPUTY UNDER SECRETARY FOR FIELD OPERATIONS
DEPUTY UNDER SECRETARY FOR MANAGEMENT
OFFICES OF: LABOR RELATIONS INTERNATIONAL AFFAIRS BOARD OF CONTRACT APPEALS
COMMUNITY DEVELOPMENT CORPORATION BOARD OF DIRECTORS GENERAL MANAGER
GENERAL COUNSEL
ASSISTANT SECRETARY FOR LEGISLATIVE AFFAIRS
ASSISTANT SECRETARY FOR CONSUMER AFFAIRS AND REGULATORY FUNCTIONS
ASSISTANT SECRETARY FOR FAIR HOUSING AND EQUAL OPPORTUNITY
ASSISTANT SECRETARY FOR ADMINISTRATION
INSPECTOR GENERAL
FEDERAL INSURANCE ADMINISTRATOR
FEDERAL DISASTER ASSISTANCE ADMINISTRATOR
ASSISTANT SECRETARY FOR HOUSING-FEDERAL HOUSING COMMISSIONER
ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT
ASSISTANT SECRETARY FOR POLICY DEVELOPMENT AND RESEARCH
NEW COMMUNITIES ADMINISTRATOR
REGIONAL ADMINISTRATOR
AREA OFFICE DIRECTOR
INSURING OFFICE DIRECTOR

APPENDIX A2

ASSISTANT SECRETARY FOR CONSUMER AFFAIRS AND REGULATORY FUNCTIONS



APPENDIX B.—CONSUMER REPRESENTATION AND PROTECTION ACTIVITIES IN SELECTED HUD PROGRAMS

1. Federal Insurance Administration.

a. National Flood Insurance Program provides Federally subsidized flood insurance to property owners in areas prone to flood, mudslide or flood-related erosion, whose communities participate in this program. The program also includes flood plain mapping and management efforts.

Final regulations will shortly be published in the FEDERAL REGISTER, requiring that with all new or renewed flood insurance policies, a notice ("stuffer") must be included directing consumer inquiries or complaints to the Federal Insurance Administrator. Toll free lines are also required under these regulations.

b. Riot Reinsurance Program assists property owners in urban areas to obtain essential insurance coverage, against loss from fire, vandalism and malicious mischief, on property located in areas subject to possible civil disturbances.

Final regulations will shortly be published in the FEDERAL REGISTER, requiring that with all riot reinsurance policies, a notice must be included directing consumer inquiries or complaints to the State insurance commissioner, for audit by the Federal Insurance Administrator.

c. Federal Crime Insurance Program enables businessmen and residents of homes and apartments to purchase burglary and crime insurance in States where it is difficult to obtain in the private market.

With all new or renewed crime insurance policies, a notice must be included directing consumer inquiries or complaints to the Federal Insurance Administrator.

d. Insurance availability problems are also studied by the Federal Insurance Administration.

2. FHA Insurance and Minimum Property Standards.

The Federal Housing Administration (FHA) provides mortgage insurance to qualified homebuyers, providing a low downpayment, long-term, fully amortized mortgage. The property is Federally appraised, for value, and the builder is required to provide a one-year warranty.

FHA-insured properties must also meet minimum property standards promulgated by HUD.

A booklet describing what to look for when buying a home, and FHA minimum property standards, is under preparation.

An FHA nationwide consumer information telephone number has been established.

3. Condominiums.

To meet consumer needs in the growing condominium market, plans are underway to revise the booklet, "Questions about Condominiums" to develop a manual for homeowner's associations, and to adapt the "Home Buyer's Estimator of Monthly Housing Costs" for condominium purchaser's use.

4. Lead Based Paint Research.

Pursuant to the Lead Based Paint Poisoning Prevention Acts of 1971 and 1973, designed to eliminate the hazards of high lead content paint, HUD is conducting a three city experimental project, testing new hazard elimination techniques for cost and effectiveness. Demonstration projects in cooperation with the Center for Disease Control are also underway.

HUD is also preparing new regulations to eliminate this hazard from residential structures financially assisted by the Department.

APPENDIX C.—SUMMARY OF PUBLIC COMMENTS

The Department received approximately 150 responses on the Proposed Consumer Representation Plan, 40 FR 55161. Approximately one-half of them were from individual consumers who cited specific problems or raised questions directed at a particular program.

Most of the remaining comments came from civic, community and State organizations, with a scattering of letters from industry and trade associations, minority group organizations, labor unions, financial institutions, media groups and universities.

The comments fell into several categories. Below is a discussion of the nature of the comments and HUD's resolution of them.

On Consumer Complaint Handling. A number of commentors suggested that HUD improve the consumer complaint mechanism through effective quality control of the responses, assurances of timeliness and evaluations of system performances.

HUD has done this in its plan and gone one step further to establish a complaint review system. Already consumer complaint coordinators have been named by each program Assistant Secretary, Program Administrator and Regional Administrator. The system is now being put into place.

One person recommended a toll free phone number for consumer complaints. That proposal was not adopted but will be studied further. In any event it is HUD's view that a toll free number should not be utilized until the entire review process is established.

On Information Request Handling and Consumer Education. The general theme of the comments was that the requests for information should be handled in a more responsive manner and that HUD personnel should be trained to handle requests for information. HUD does not now have a system for providing information to the public. This will be improved, moreover, through greater involvement of field personnel with the public, and through a review of all public documents for a sensitivity to consumers. At the present time CARF is reviewing publications of the Department to ensure that they communicate and are sensitive to consumer issues. The Office either suggests factors to be considered in future documents or alternative language for use in the particular publication being reviewed.

In a similar vein, HUD received many comments on the consumer education program and its distribution of materials. The comments and suggestions included the following:

Distribute materials to libraries and consumer groups; make use of direct mailings; make use of media; devise methods of bringing information directly to minority consumers; use satellite offices to distribute consumer education materials; and insure that low and moderate-income citizens are informed about housing and community development issues. In establishing the HUD consumer network, consideration was given to the necessity to reach all consumers irrespective of economic level or race. HUD contemplates using the network as one way of distributing educational materials. Further, the HUD Office of Public Affairs has developed and will continue to develop ways of working with the media to inform and educate consumers.

On Consumer Involvement in Policy-making. At present before effective communication patterns have been created between the program officers and consumers. CARF has participated extensively in the Departmental Clearance Process. CARF viewed the perspective we provided through comments during this period as a less desirable, though hopefully still meaningful, temporary alternative to the more significant responses that will be generated in increasing numbers as consumers become more fully and directly involved in the Department decision-making process.

CARF's comments during this interim period are divisible into two classes. First, CARF reacted to proposed legislation for which a Departmental response was being sought. Second, it responded to requests for clearance of Departmental proposed and final regulations and issuances.

With respect to legislative materials, CARF reviews every piece of proposed legislation on which a Departmental position is being formulated. CARF has in fact commented on a wide variety of issues in this process.

With respect to other Departmental issuances, CARF has participated in the formulation of the Department's position on issues as diverse as proposed regulations on Section 8 bonus allocations, proposed tenant eviction regulations, miscellaneous revisions to the single family mortgagee's handbook, proposed revisions to the handbook and regulations regarding the drafting, clearing and publication of Federal Register materials, the HUD Unified Issuance Handbook, the Community Services Functions Field Handbook, and the Inflation Impact Statement Handbook, among others.

But, as was indicated in the plan, this system is an interim one. It is HUD's intent to involve consumers, directly, in a meaningful way in policy-making.

HUD's intention conforms to the recommendations made by those commenting on the Proposed Consumer Representation Plan. The same point was made in a variety of ways: "Involve grassroot level participation in policy decisions; include low-income citizen participation in policy decisions; there should be consumer feedback and input through use of public forums and advisory groups; solicit views from consumers, state and local consumer protection groups.

General. Many of the comments dealt with specific program areas or constituted a request for information. CARF has referred the requests for information to the relevant office. Where there were comments or complaints about a specific program, those have been catalogued and will be used by CARF in determining what issues should be subjected to greater public participation and what issues should be the subject of a recommended change in policy.

APPENDIX D.—CONSUMER COMPLAINT COORDINATORS

For complaints and inquiries, use the following addresses and telephone numbers:

REGIONAL OFFICES AND TELEPHONE NUMBERS

Region I

John F. Kennedy Building, Boston, Massachusetts 02203 (617) 223-4067—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Region II

26 Federal Plaza, New York, New York 10007 (212) 264-4233—New Jersey, New York, Puerto Rico, Virgin Islands.

Region III

Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106 (215) 597-2560—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.

Region IV

Peachtree-Seventh Building, 50 Seventh Street, N.E., Atlanta, Georgia 30323 (404) 526-2516—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Region V

300 South Wacker Drive, Chicago, Illinois 60606 (313) 353-1134—Illinois, Indiana, Minnesota, Michigan, Ohio, Wisconsin.

Region VI

Earl Cabell Building, 1100 Commerce Street, Dallas, Texas 75242 (214) 749-7406—Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Region VII

Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106 (616) 758-2558—Iowa, Kansas, Missouri, Nebraska.

Region VIII

Federal Building, 19th and Stout Streets, Denver, Colorado 80202 (303) 837-3721—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Region IX

450 Golden Gate Avenue, P.O. Box 36003, San Francisco, California 94102 (415) 556-8504—Arizona, California, Hawaii, Nevada, Guam, American Samoa.

Region X

Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101 (206) 442-5330—Alaska, Idaho, Oregon, Washington.

HUD CENTRAL OFFICE AND TELEPHONE NUMBER (AREA CODE 202)

Office of General Counsel, 755-7090.
Legislative Affairs, 755-7380.
Public Affairs, 755-5284.
Community Planning & Development, 472-2836.
New Communities, 755-6170.
Government National Mortgage Association, 755-5927.
Equal Opportunity, 755-5673.
Administration, 755-5206.
Federal Insurance Administration, 755-7355.
Office of Interstate Land Sales, 755-5860.
Inspector General, 755-6430.
Federal Disaster Assistance Administration, 634-7906.
Policy Development & Research, 755-5531.
Housing, 755-5996.
Consumer Affairs and Regulatory Functions, 755-5354.

DEPARTMENT OF LABOR

Consumer Representation Plan

PRIMARY CONSUMER CONTACT

Special Assistant to the Secretary for Consumer Affairs, U.S. Department of Labor, Room 1032 South, 3rd & Constitution Avenue, N.W., Washington, D.C. 20210 (202) 523-7304.

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I. STATEMENT OF PURPOSE

The Department of Labor is committed to assuring that consumers who are affected by the laws, regulations, policies and programs it administers have the opportunity to participate at the earliest possible stage in the process through which decisions are made, and that these consumers are as fully informed as possible about actions affecting them.

The purpose of the Department's Consumer Representation Plan is to carry out these objectives by making Department agencies more responsive to consumer needs and concerns. Where the mechanisms for consumer participation already exist, they will be strengthened and where they do not exist, they will be instituted.

II. EXECUTIVE SUMMARY

The degree of consumer representation in the Department of Labor has varied to date. In some agencies, procedures for consumer input already exist and in others—particularly new programs—these procedures are in the developing stages.

The first goal of the Department plan is to standardize the basic opportunities for consumer representation throughout all agencies in each of the consumer impact areas. For this reason, the first section of the plan outlines general actions that will be implemented by all agencies to formalize and make generally uniform the Department's commitment to increasing consumer representation. These are new actions that go beyond the mechanisms that already exist.

Included in these general actions to improve responsiveness to consumers are a commitment to assure balanced representation of consumer viewpoints on advisory committes, the development of new methods to involve consumer in the preproposal stage of regulations, scheduling annual open meetings in regional cities for consumer comment on program operations, regulations and policies, information exchange with general consumer groups, issuance of news releases or other suitable informational materials on Federal Register notices, improvement in the language of notices and publication of a summary preceding each notice and publication of a series of one-page consumer fact sheets on major laws and programs in easily understood language.

The second section of the plan establishes a structure and organization for consumer activities in the Department based on the appointment of a Special Assistant to the Secretary for Consumer Affairs with overall responsibility for coordinating and monitoring the consumer program in the Department, the appointment of agency consumer representatives in Washington and in the regions, and the establishment of a Secretary's Committee on Consumer Affairs to coordinate consumer affairs programs throughout the Department.

The final section contains the specific new actions each agency with consumer impact will take, as part of their consumer affairs programs, to implement the Department plan and to correct any specific weaknesses in consumer representation.

Some of these actions include town hall meetings to be held across the country on job safety and health issues, toll-free telephone numbers for consumers, providing all consumers who comment on regulations with copies of the final regulations and a new consumer information program explaining the Consumer Price Index.

III. OPERATING UNITS INVOLVED

The Department of Labor enforces laws that protect the rights of workers to safe and healthful working conditions, a minimum hourly wage and overtime pay, unemployment insurance, workers' compensation and freedom from employment and pay discrimination. In addition, the Department protects workers' pension rights, helps them train for and find jobs, works to strengthen free collective bargaining and keeps track of changes in employment, prices and other national economic statistics. The Department is therefore primarily concerned about the quality of worklife in America and with the relationship between workers, employers and jobs. Its programs are not concerned with any specific product in the consumer sense which is available in the marketplace.

The following specific Department agencies conduct rulemaking and information activities that affect consumers:

A. EMPLOYMENT AND TRAINING ADMINISTRATION (ETA)

Provides training, placement services, transitional public service jobs and unemployment compensation from State and local agencies to people who are unemployed or seeking new work.

1. Comprehensive Employment and Training Program. (CETA)—Provides State and local governments with funds to design and operate job training programs to meet local needs. During periods of high unemployment, these governments provide Federally-funded public service jobs for unemployed workers. CETA also provides special assistance to disadvantaged workers including Indians, migrant and seasonal farm workers, offenders and older workers.

2. Bureau of Apprenticeship and Training—Promotes apprenticeship programs in skilled trades under the National Apprenticeship Act.

3. Job Corps—Provides job training and basic education for disadvantaged youth in a residential environment.

4. Work Incentive Program (WIN)—Helps welfare recipients get and keep jobs. WIN is conducted in cooperation with the U.S. Department of Health, Education and Welfare.

5. U.S. Employment Service (USES)—Directs the Federally-funded State employment service system which provides job placements through computerized job banks, counseling, testing and referral to training and offers a variety of employer services. USES also administers special programs to aid veterans and disadvantaged people.

6. Unemployment Insurance Service—Directs the Federal-State unemployment insurance system and other unemployment compensation programs, including those for veterans, federal employees and persons jobless due to foreign imports or natural disasters, such as floods.

7. Office of Policy, Evaluation and Research—Supports and conducts research into employment and training problems, develops projects to test new ways of serving workers with particular job-related needs and evaluates employment and training programs.

B. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

Develops, issues and enforces safety and health standards to protect workers on the job. OSHA inspects workplaces for

standards violations, issues citations and proposes penalties for non-compliance with regulations. OSHA aids States in developing their own job safety and health plans and conducts education, training and information programs to promote workplace safety and health practices.

C. LABOR-MANAGEMENT SERVICES ADMINISTRATION (LMSA)

Supervises and regulates certain union activities, protects participants' rights in private pension and welfare benefit plans, protects reemployment rights of veterans and provides assistance to labor and management in resolving disputes through collective bargaining.

1. Pension and Welfare Benefit Programs, Office of Employee Benefits Security—Administers the Employee Retirement Income Security Act which protects the employee benefit rights of workers in private industry. The ERISA program is jointly administered with the Internal Revenue Service and the Pension Benefit Guaranty Corporation.

2. Labor-Management Standards Enforcement—enforces the Labor-Management Reporting and Disclosure Act requiring unions to make annual financial reports and to comply with standards for conducting union elections.

3. Veterans Reemployment Rights—Assists veterans in exercising their reemployment rights and works with the Veterans Employment Service of the Employment and Training Administration and the U.S. Department of Defense.

4. Labor-Management Policy Developments—Conducts special studies on collective bargaining problems and research on policy development.

D. BUREAU OF INTERNATIONAL LABOR AFFAIRS (ILAB)

Provides trade adjustment assistance to workers displaced from their jobs by increased imports, participates in multilateral trade negotiations, provides technical assistance to developing countries and aids U.S. foreign affairs agencies in international labor matters.

E. BUREAU OF LABOR STATISTICS (BLS)

Collects, analyzes and publishes data on the labor force, employment, unemployment, occupational outlook, wages, industrial relations, prices, family budgets, consumer expenditures, labor turnover, productivity, economic growth and occupational safety and health.

F. EMPLOYMENT STANDARDS ADMINISTRATION (ESA)

Enforces laws and regulations setting employment standards, provides workers' compensation to longshore, harbor workers and federal workers injured on the job, and benefits to miners suffering from black lung and their dependents, enforces equal employment opportunity requirements for Federal contractors and promotes the status of working women.

1. Wage and Hour Division—Enforces Federal wage and hour laws which set the minimum wage, overtime pay, equal pay, child labor and record-keeping standards; enforces laws prohibiting age discrimination in employment, establishing wage garnishment procedures, requiring registration by farm labor crew leaders, requiring safe and healthy living conditions for farm workers, and setting wage and hour standards for Government contract work.

2. Federal Contract Compliance Programs—Administers the Federal government's program requiring equal employment opportunity for workers regardless of race, color, sex, religion, national origin, handicap or veteran's status on Federal contract work.

3. Workers' Compensation Programs—Provides compensation for Federal employees and other groups who suffer job-related injuries, diseases and deaths; provides compensation for maritime workers or their survivors, and compensation benefits and medical treatment to miners with black lung disease as well as benefits for their survivors.

4. Women's Bureau—Develops policies and programs to promote the welfare of women in the workforce, encourages better use of manpower and offer assistance to State and community leaders and other nations on women and work.

IV. DEPARTMENT PLAN

A. GENERAL ACTIONS

This part of the Department plan outlines general actions the Department will take agency-wide to standardize and increase basic opportunities for consumer participation and representation in each of the consumer impact areas. These actions set the basic guidelines or framework within which Department agencies will conduct their consumer affairs programs.

A. *Decision-Making and Program Planning.* To strengthen consumer participation in decision-making the Department will:

1. Assure that deadlines for public comment, submission of data, notification of intent to appear at hearings and committee meetings are reasonable and permit maximum participation by consumers.

2. Assure balanced representation of consumer viewpoints on advisory committees including the appointment of public members knowledgeable in consumer matters.

3. Increase contacts with general consumer groups to obtain information and technical data for use in rulemaking and program development.

4. Better utilize Department conferences and seminars to encourage consumer input and involvement in decision-making.

5. Develop new methods to involve consumers in pre-proposal stage of regulations development.

B. *Evaluation of Existing and Proposed Programs.* To improve consumer participation in the evaluation process, the Department will:

1. Hold an annual open meeting in each of our regional cities for consumers to evaluate program operations, regulations and policy.

2. Develop new procedures to expand consumer input into program and policy evaluation and to incorporate the input into the evaluation process.

3. Increase contacts with general consumer groups to encourage their input into the evaluation of existing and proposed Department programs.

C. *Data Transmission.* To increase the flow of information and data from consumers the Department will:

1. Better utilize public members of Department advisory committees and councils to transmit consumer views and information and, where possible, replace public members whose terms have expired with persons who have background in consumer matters.

2. Establish contacts with consumers to solicit consumer input.

3. Develop contacts with general consumer groups to solicit information, and research materials reflecting consumer viewpoints.

D. *Correspondence and Complaint Handling.* To improve response to consumer correspondence and complaints the Department will:

1. Assure that general correspondence and consumer complaints are handled promptly and responsively.

2. Strengthen procedures to assure that complaints and suggestions are funneled into the decision-making process.

E. *Communications to Consumers.* To expand communication with consumers the Department will:

1. Issue timely FEDERAL REGISTER notices to inform consumers about rulemaking activities.

2. Issue general news releases or other suitable publication of information contained in Federal Register notices on the development of regulations and policy.

3. Improve the language in Federal Register notices and publish a summary statement in understandable language to directly precede the actual notice.

4. Develop a mailing list of general consumer organizations across the country for use in mailing out consumer news releases and other consumer information materials.

F. *Feedback to Consumers.* To improve response and feedback to consumers about their comments the Department will:

1. Publish a summary of significant consumer comments on proposed policy and rulemaking in the FEDERAL REGISTER.

2. Develop new methods for feedback to consumers about their program and policy comments.

G. *Consumer Education.* To strengthen existing consumer education programs the Department will:

1. Publish one-page consumer fact sheets in easily understood language on major laws and programs administered by the agencies with information on where and how consumers can obtain assistance.

2. Prepare articles for Department publications, and the general and trade media on how consumers can participate in the rulemaking activities of Department agencies.

B. STRUCTURE AND ORGANIZATION OF CONSUMER ACTIVITIES

The Department of Labor has not previously had organizational lines of responsibility to coordinate and consolidate consumer affairs activities. Up to this time each agency has conducted consumer activities individually. The second part of the Department's plan outlines the policy, organization and responsibilities that have been established for the Department's overall consumer program. These procedures have been issued in the form of a Secretary's Order which makes them part of the operating policy of the Department of Labor.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, *May 14, 1976.*
Washington, May 14, 1976.

SECRETARY'S ORDER 12-76.

Subject: Delegation of Authority for Implementing the Department of Labor's Consumer Representation Plan

1. *Purpose.* To delegate authority and assign responsibility for the Department of Labor's (DOL) Consumer Representation Plan and the development of DOL Agency Consumer Affairs Programs, and to establish the position of Special Assistant to the Secretary for Consumer Affairs and the Secretary's Committee on Consumer Affairs.

2. *Background.* The President has directed that the Federal government become more responsive to consumer needs by increasing opportunities for consumers to participate in decision-making and by informing consumers about agency activities affecting them. The Department has developed and will implement its Consumer Representation Plan which outlines procedures to achieve these goals.

3. *Policy.* It is the policy of the Department to assure that client groups and individual consumers affected by regulations, policy, decisions, and program actions are given adequate opportunity to comment and participate in the decision-making and review processes, and that they are informed about actions that affect them.

4. *Delegation of Authority and Assignment of Responsibility.*

a. The position of *Special Assistant to the Secretary for Consumer Affairs* is established within the Department. The Special Assistant is delegated authority to establish procedures and guidelines for implementing the Department's Consumer Representation Plan, for monitoring DOL Agency Consumer Affairs Programs, for reporting and making recommendations on consumer affairs activities—external and internal—to the Secretary of Labor, and for serving as liaison with client groups, individual consumers, consumer organizations, the White House Office of Consumer Affairs, the private sector and certain Federal, State, and local consumer units.

b. *DOL Agency Heads* are assigned responsibility for developing DOL Agency Consumer Affairs Programs to implement the Department's Consumer Representation Plan and for assuring compliance with its objectives.

5. *Action.*

a. *DOL Agency Heads* will:

(1) Develop Agency Consumer Affairs Programs that will strengthen the role of client groups and consumers in Agency decision-making, improve complaint-handling procedures, develop opportunities for participation in program and policy evaluation, develop methods of feedback to consumers, and improve consumer information programs.

(2) Implement the following actions specified for their Agencies in the Department's Consumer Representation Plan:

(a) Establish formal contacts with consumer organizations representing both client groups and general consumers to solicit input into decision-making.

(b) Publish a summary of proposed regulations and policy in understandable language to appear (preceding technical notices) in the Federal Register.

(c) Issue timely news releases in conjunction with Federal Register notices to allow the greatest possible time for public comment after receipt of the release.

(d) Publish a summary of significant public comments on proposed policy and rulemaking in the Federal Register.

(e) Appoint a DOL Agency Consumer Representative to assist in assuring client group and individual consumer involvement in decision-making.

b. *DOL Agency Consumer Representatives* will:

(1) Monitor, on behalf of DOL Agency Heads, implementation of the Department's Consumer Representation Plan and the Agency's Consumers Affairs Program to assure that they are implemented and administered according to overall policy, guidelines, and procedures.

(2) Serve as contact point within the Agency for consumer affairs matters.

(3) Report quarterly to the Special Assistant for Consumer Affairs on the progress of the Agency's Consumer Affairs Program.

c. *Regional Directors* will:

(1) Monitor for the Special Assistant for Consumer Affairs the implementation of the Department's Consumer Representation Plan as it affects field operations.

(2) Work with other DOL regional officials to achieve maximum responsiveness to client group and individual consumer requests and complaints.

(3) Serve as liaison on consumer matters with client groups, individuals, consumer organizations, businesses, and other State and local units in the regions.

(4) Report quarterly to the Special Assistant for Consumer Affairs on the status of consumer representation in the regions.

6. *A Secretary's Committee on Consumer Affairs* is established within the DOL to assure coordination and focus for the various consumer programs operated throughout the Department.

a. *Organization.* The Secretary's Committee on Consumer Affairs will be chaired by the Special Assistant for Consumer Affairs, who may designate a member of the Committee to serve as Chairperson in the event of absence.

b. *Membership.* In addition to the Chairperson, the Committee will be composed of DOL Agency Consumer Representatives, and two Regional Directors to be chosen by the Under Secretary on a rotating basis.

c. *Meeting Schedule.* The Secretary's Committee on Consumer Affairs will meet at least once quarterly. The Chairperson, after reasonable notice to all members, may convene additional meetings as the Committee requires.

W. J. USERY, Jr.,
Secretary of Labor.

C. AGENCY CONSUMER AFFAIRS PROGRAMS

The final section of the Department plan contains the agency consumer affairs programs or the specific actions each agency with consumer impact will take to implement the Department plan and to correct any specific weaknesses in consumer representation.

Employment and Training Administration

The Employment and Training Administration (ETA) will undertake an active program to encourage consumer participation in the various phases of decisionmaking and improve communications with consumers.

A. *Decision-Making and Program Planning.* 1. ETA will communicate regularly with consumers and consumer groups to disseminate policy and program information and elicit comments and recommendations for consideration in decision-making.

B. *Evaluation of Existing and Proposed Programs.* 1. ETA will notify prime sponsors of programs under the Comprehensive Employment and Training Act (CETA), apprenticeship programs registered by State agencies and other program operators of its support for consumer participation in policy and program decisions. ETA will consider the amount of consumer participation as one criterion upon which the program will be evaluated.

C. *Data Transmission.* 1. ETA will consider knowledge in the consumer area as a criterion in selecting public members for new advisory committees or replacing members of existing committees.

D. *Correspondence and Complaint Handling.* 1. ETA will establish a complaint handling procedure that responds to consumer questions and complaints. Consumer questions and complaints will be handled at the point closest to their origin wherever possible. Problems that are not resolved at local, State or regional levels will be referred to the National Office for handling.

E. *Communication to Consumers.* 1. Program offices preparing Federal Register notices will make available to consumers on request, a summary of the notice.

2. To better serve non-English speaking consumers, ETA will provide translations of certain consumer publications. It will also provide copy, in English, for translation and distribution to non-English speaking groups by consumers organizations who wish to provide this service to their members. Within program and budget limitations, ETA will assist consumer groups in activities to communicate program and policy information to the non-reading public.

3. News releases announcing information published in the FEDERAL REGISTER will be issued to the press and wire services. In some cases depending on the nature of the notice, spot announcements will be produced for radio and television.

F. *Feedback to Consumers.* 1. ETA will respond promptly to consumer proposals and where appropriate, this reply will include analysis and evaluation of the proposal and the decision made.

G. *Consumer Education.* 1. ETA will continue to publish a series of consumer leaflets on current programs. Leaflets covering major program changes and new developments will be published and given wide distribution.

2. ETA will participate in Departmentwide programs of consumer education by (a) analyzing consumer needs as indicated by questions and problems they raise (b) developing consumer education materials and (c) providing personnel to conduct or participate in consumer education sessions.

Each Regional Administrator and each member of the ETA Executive Council will report to the Assistant Secretary at the end of each quarter on activities and accomplishments in improving consumer representation.

Occupational Safety and Health Administration

The consumer affairs program discusses specific measures already in place and others soon to be implemented or underway—to assure agency responsiveness to consumer needs.

A. *Decision-Making and Program Planning.*

B. *Evaluation of Existing and Proposed Programs.* 1. OSHA will increase significantly the role of advisory committees, particularly the National Advisory Committee on Occupational Safety and Health. This will be done to increase the value to the decision-making process of the various viewpoints represented by committee membership. In particular, the committee will establish a number of subcommittees to determine ways of overcoming objections raised in the past to OSHA programs and policies.

2. OSHA also has scheduled a series of "town hall" meetings to gather information and suggestions on how it should change safety and health regulations being considered for amendment. These meetings will be held in various locations nationwide to make it easier for consumer interests to be heard at the pre-proposal stage.

3. OSHA will broaden its contacts with interested and affected consumers before drawing up proposed rules.

4. OSHA will expand contacts with special consumer groups affected by its rules and standards.

C. *Data Transmission.* 1. OSHA will encourage the various members of its ad hoc and standing advisory committees to convey to OSHA the views of the constituencies they represent, as well as to convey to those groups information on OHSA progress, goals and accomplishments so their views may be soundly developed.

D. *Correspondence and Complaint Handling.* 1. OSHA has instituted new procedures to assure that employee complaints related either to safety and health or to discrimination are in every case investigated from both angles. This will assure, for examples that employees with discrimination complaints do not leave unmentioned complaints of working conditions possibly affecting coworkers, and vice versa.

2. OSHA will develop a system to evaluate response to consumer queries that will assure all other affected persons or groups are informed of the response as well. In this way, information on policy determinations, for example, will be transmitted not only to the correspondent, but to other constituencies as well.

3. OSHA is studying the feasibility of a form post card for acknowledging receipt of consumer/comment on proposed standards and regulations. Limitations on funding and personnel staffing have, in the past, precluded such action.

4. OSHA is investigating a "one-stop-shopping" concept for providing service to all consumers. This would involve locating the correspondence section, publications office, document review room and public affairs office in a single physical facility. This would also include toll-free telephone numbers for consumer.

E. *Communications to Consumers.* 1. OSHA already is operating under all the steps outlined in the Department plan for improvement in this area. However, one very vital area that has long been neglected in OSHA is being revitalized—audio-visual communications. Under pending reorganizational considerations, OSHA will reestablish the capability to produce for internal and external use, films, film strips, slides, video tapes and audio tapes to enhance the agency capability to transmit information about its programs to consumers. This capability will be particularly valuable in reaching smaller employers, most of whom do not have affiliations with trade or professional groups, and their employees, most of whom are not unionized.

F. *Feedback to Consumers.* 1. In addition to developing a system for acknowledging receipt of comment on proposed regulations, OSHA will, to the extent feasible, use that system as the basis for a mailing list that will be used to disseminate a copy of the final regulations promulgated. This will assure consumers not only that their comments have been received and acknowledged, but they will have the added advantage of reviewing the final rules soon after promulgation to learn to what extent their views played a part in the final decision.

G. *Consumer Education.* 1. The addition of audio-visual capability will enhance OSHA's ability to expand consumer education programs. A prototype program is now underway as part of the National Emphasis Program of inspecting foundries and metal-stamping operations, that will present employer and employee groups with educational material directly related to their industry before OSHA undertakes intensive inspection activity in that industry. Such tailored educational programs, coupled with on-site consultation efforts to identify and eliminate job hazards, will greatly enhance OSHA's consumer education efforts.

2. OSHA also is actively preparing a series of consumer fact sheets, each designed to explain in simple, clear terms the aspects of various OSHA functions and activities. Each stresses the ways in which consumers can interact with OSHA in that particular program activity.

Labor-Management Services Administration

Section 1—*Labor-Management Standards Enforcement (LMSE).* LMSE administers reporting and disclosure laws requiring labor organizations to file annual financial reports. In addition, LMSE regulates union trusteeships and the election of union officers. The impact of this office on the general consumer is therefore more limited than that of other agencies.

LMSE will undertake the following activities as part of its consumer affairs program.

A. *Decision-Making and Program Planning.* 1. LMSE will publish all regulations as proposals with adequate time for comment by interested consumers.

2. LMSE will increase contacts with consumer groups through meetings to gain their input in the early stages of the development of regulations and policy.

B. *Correspondence and Complaint Handling.* 1. LMSE will improve the efficiency of correspondence processing and response.

2. LMSE will reduce the average response time to requests for union financial reports.

C. *Communications to Consumers.* 1. LMSE will prepare news releases on all major proposed regulations to coincide with publication of the proposal in the Federal Register. Special distribution will be made to national and international unions, and major trade media, and consumer groups upon request.

2. LMSE will increase the number of consumer publications and revisions of present publications.

3. LMSE will make the annual report on enforcement and reporting more informative for consumers.

D. *Feedback to Consumers.* 1. LMSE will establish additional procedures to increase the feedback of information to consumers. One new procedure will be to provide all consumers who comment on proposed regulations with copies of the final regulations once they are published.

2. LMSE will include an evaluation of the comments received on Federal Register notices in the Register with a discussion of which were adopted and which were rejected.

E. *Consumer Education.* 1. LMSE's technical assistance program, a consumer education program, will be emphasized July 1976.

2. LMSE will conduct additional special seminars for union officers and members to inform them of their rights and responsibilities. LMSE personnel work closely with labor unions and other consumer groups in scheduling and conducting these seminars and training sessions.

Section 2—*Office of Veterans' Reemployment Rights.* The Office of Veterans' Reemployment Rights (OVRR) assist

veterans, reservists and National Guardsmen in exercising their reemployment rights with employers they leave to perform military training or service. OVRR does not develop regulations or have rulemaking authority under the reemployment law, therefore its consumer affairs program consists primarily of information dissemination to the specific clients affected by this law.

As part of its consumer affairs program OVRR will do the following:

A. *Communications to Consumers.* 1. OVRR will schedule question and answer sessions on radio with employer representatives, union representatives and veterans' organizations.

2. OVRR will establish toll-free telephone numbers for calls to OVRR and LMSA field offices.

3. OVRR will provide additional speakers at employer representative meetings, Chambers of Commerce, union conventions, and Reserve and National Guardsmen Training Centers.

4. OVRR will produce TV public service spot announcements on the reemployment law.

Section 3—*Pension and Welfare Benefit Programs, Office of Employee Benefits Security.* This office administers the newest Labor Department program, the Employee Retirement Income Security Act (ERISA) which protects the employee benefit rights of workers in the private sector.

The ERISA program is still in the early stages of implementation.

While ERISA uses many of the standard mechanisms for consumer input outlined in the section on existing consumer mechanisms, the office will develop specific new actions to enhance consumer representation as the program develops.

Bureau of International Labor Affairs

The consumer affairs program of the Bureau of International Labor Affairs (ILAB) focuses primarily on the area of ILAB responsibility which falls most clearly within the consumer area: the Trade Adjustment Assistance (TAA) Program for workers.

A. *Decision-Making and Program Planning.* 1. ILAB will issue news releases which coincide with publication of FEDERAL REGISTER Notices seeking comments at specific stages of regulations development or announcing public hearings involving the TAA program. These releases will be given wide dissemination to interested or affected consumer groups.

B. *Evaluation of Existing and Proposed Programs.* 1. The written and oral comment process will be reinforced by a careful review of suggestions presented at public hearings for utilization in future program operations.

2. Comments on the TAA program are and will be solicited from workers and their representatives, and this process will be expanded to include a broader spectrum of the workers who have been affected by the program. During the 12-month period commencing May 1, 1976, ILAB will conduct a survey of individual consumers (i.e., workers who have been certified as eligible to apply for adjustment assistance) to get their evaluation of the effectiveness of the TAA program as it relates to them.

3. The role of the Trade Act Policy Committee will be expanded as a part of the ILAB consumer affairs program. This Committee, which is chaired by the Deputy Under Secretary, will now meet at least quarterly to reevaluate the TAA program in the light of the various consumer inputs regarding it. Within budgetary and other constraints, the Committee will meet in open session with consumer representatives in the regional cities as well as in Washington, D.C.

C. *Data Transmission.* 1. As a method of possibly achieving even greater consumer data transmission, the Solicitor's Office of the Labor Department will draft additional language for inclusion in the standard Notice of Investigation concerning each new trade adjustment assistance case which the Department institutes. This language will solicit and encourage public comment regarding each case. Information which could prove useful for the Department's investigation may well result from this action.

2. ILAB will strengthen consumer contacts.

D. *Correspondence and Complaint Handling.* 1. ILAB will continue its policy to answer all letters within ten working days.

2. ILAB will inform consumers about the appeals mechanism available to them.

E. *Communication to Consumers.* 1. The Spotmaster audio news service will be utilized to report particularly significant developments in the trade adjustment assistance program.

F. *Feedback to Consumers.* 1. As a key part of its consumer feedback program, ILAB will pay careful attention to consumer comments. All consumer comments or data submissions made in connection with pulbic hearings will become a part of the public record.

G. *Consumer Education.* 1. A consumer fact sheet on the program has been issued and will be updated periodically. The detailed news releases also contribute to consumer education. Frequent contacts—by telephone and in writing—with the media, the general consumer, and the client groups also help significantly in this regard.

Bureau of Labor Statistics

The Bureau of Labor Statistics (BLS) has no regulatory or enforcement functions. Its programs are almost entirely concerned with collecting economic data and providing it to consumers. For this reason, the BLS consumer affairs program is primarily information oriented.

A. *Evaluation of Existing and Proposed Programs.* 1. BLS is requesting that a special committee be appointed to examine and evaluate employment and unemployment data.

B. *Correspondence and Complaint Handling.* 1. BLS is improving handling of periodical subscriptions and publications orders by the Government Printing Office.

C. *Communications to Consumers.* 1. BLS will develop a consumer information program to help consumers understand changes in the Consumer Price Index and what they mean.

2. BLS will attempt to further reduce the price of its publications by the Government Printing Office in order to make them more available to consumers.

3. BLS will publish a monthly list of its new publications for consumer use.

D. *Consumer Education.* 1. BLS will issue one-page consumer fact sheets on its various programs.

2. BLS will prepare a pamphlet explaining revised Consumer Price Index.

Employment Standards Administration

The Employment Standards Administration (ESA) will take the following actions as part of its consumer affairs program to encourage Consumer participation in decision-making.

A. *Decision-Making and Program Planning.* 1. Advanced notices of proposed rulemaking will generally be issued in the FEDERAL REGISTER to give consumers an opportunity to participate in the pre-proposal stage of the regulations process.

2. Where appropriate, ESA will hold more public hearings.

3. The consultation process will be formalized and expanded.

4. Public members of advisory committees will be asked to represent consumer views. Where possible, new public members will be selected to reflect consumer opinions.

5. ESA will hold or participate in one Departmental Consumer conference annually in each of the ten regions. The purpose of the conferences is to encourage consumer comment on policy formulation and execution.

B. *Evaluation of Existing and Proposed Programs.* 1. ESA will assure that all public comments are fed directly into the evaluation process.

C. & D. COMMUNICATIONS TO CONSUMERS AND CONSUMER EDUCATION

1. ESA will produce and distribute additional radio and television public service announcements and film materials to inform consumers of their rights and responsibilities under ESA laws.

2. ESA will disseminate special news articles on subjects of consumer interest to the press and wire services. Where appropriate, radio and TV spot announcements will be produced and made available.

3. ESA will distribute a new exhibit system to regional and area offices for appropriate showings to consumers and client groups.

V. SCHEDULE OF EVENTS

A. ACTIONS

1. Appointment of Special Assistant for Consumer Affairs, July 1976.

2. Appointment of agency consumer representatives, July 1976.

3. Appointment of regional members of Secretary's Committee on Consumer Affairs, July 1976.

4. Development of agency consumer affairs programs, April 1976.
5. Implementation of general action requiring issuance of news releases on FEDERAL REGISTER notices, February 1976.
6. Adoption of Secretary's Order on Consumer Representation, May 1976.
7. Implementation of general action requiring issuance of consumer fact sheets, November 1975.

VI. ALLOCATION OF RESOURCES

The Department of Labor will implement its Consumer Representation Plan and conduct its consumer affairs programs with current resources by reallocating personnel and resources as needed, consistent with the laws the Department administers. In the future, additional new resources may be added.

Approved and Submitted by:

W. J. USERY, Jr.,
Secretary of Labor.

JUNE 11, 1976.

APPENDIX A.—DEPARTMENT OF LABOR CONSUMER CONTACTS

Individuals or organizations with consumer questions, problems or comments can contact the following persons in the Department of Labor for assistance:

WASHINGTON

Consumer comments should be addressed by mail to:

John W. Leslie, Special Assistant to the Secretary for Consumer Affairs, U.S. Department of Labor, 3rd and Constitution Avenue, N.W., Washington, D.C. 20210.

REGIONAL OFFICES

Consumer comments may be addressed by mail or telephone I. Statement of Purpose.

Region I—Boston

Gerald P. Reidy, Consumer Representative, Room 1700–C, JFK Building, Boston, Mass. 02203 (617) 223–5430.

Region II—New York

Stephen D. Blum, Consumer Representative, Room 3500, 1515 Broadway, New York, N.Y. 10036 (212) 399–5252

Region III—Philadelphia

Thomas M. Foglietta, Consumer Representative, Room 14320, 3535 Market St., Philadelphia, Pa. 19104 (215) 596–1116.

Region IV—Atlanta

Eugene W. Griner, Consumer Representative, Room 500, 1371 Peachtree St., NE., Atlanta, Ga. 30309 (404) 526–5366.

Region V—Chicago

Alexander P. White, Consumer Representative, 10th Floor, 230 South Dearborn St., Chicago, Il. 60604 (312) 353–4122.

Region VI—Dallas

Paul W. Story, Consumer Representative, Suite 744, 555 Griffin Square Bldg., Dallas, Texas 75202 (214) 749–3842.

Region VII—Kansas City

Richard W. McAvinew, Consumer Representative, Room 2505, Federal Office Bldg., 911 Walnut St., Kansas City, Mo. 61406 (816) 374–5941.

Region VIII—Denver

Robert J. Brown, Acting Consumer Representative, Room 17034 Federal Office Bldg., 1961 Stout St., Denver, Colo. 80202 (303) 837–3791.

Region IX—San Francisco

George W. Smith, Consumer Representative, Room 10064 Federal Office Bldg., 450 Golden Gate Avenue, San Francisco, Calif. 91402 (412) 556–8754.

Region X

James T. Hughes, Consumer Representative, Room 8003 Federal Building, 900 First Avenue, Seattle, Washington 98174 (206) 442–1545.

APPENDIX B—PUBLIC COMMENT ON THE PROPOSED CONSUMER REPRESENTATION PLAN

(January through May 1976)

The Department of Labor received a number of comments on its Consumer Representation Plan from organizations, individuals and consumer groups. These comments, both oral and written, came during the regional White House Conferences on Consumer Representation, the comment period for the plan as published in the Federal Register and the public hearing held in Washington on the Department's plan.

After a careful review of all the comments, the Department has amended its plan to include changes recommended by consumers.

Several consumer groups and individuals commented that the original plan was too general and did not specify actions that would be taken to improve consumer representation. While the intent of the plan was to provide a framework which would commit and guide agencies of the Department in strengthening consumer participation but allow them the flexibility to decide the most effective means to do this, a new section which includes agency consumer affairs programs has been added to the plan. This section spells out specific actions agencies will take to correct weaknesses in consumer representation.

A second prevalent comment was that the plan did not specify how Department consumer representatives would be accountable for their activities. This revised plan includes a section on structure and organization of consumer activities spelling out, in a Secretary's Order, the Department's commitment to increase consumer involvement as well as delegating responsibility for consumer activities.

Briefly, the order establishes a Special Assistant to the Secretary for Consumer Affairs responsible for overseeing the execution of the Department plan, monitoring agency consumer affairs programs and serving as liaison with consumer groups, and client organizations. The Special Assistant reports directly to the Secretary of Labor concerning the conduct of the Department's consumer program.

In addition, agency heads are responsible directly to the Secretary for assuring compliance with the objectives of the Department's plan and for administering their agency's consumer affairs program. To formalize the exchange of information, the order sets up a Secretary's Committee on Consumer Affairs, chaired by the Special Assistant and composed of agency consumer representatives appointed by agency heads. Agency consumer representatives must also report quarterly to the Special Assistant on the status of their consumer programs.

In the Department's view, the success of the consumer program is best assured by placing the responsibility for the execution of the program on the line officers of the Department rather than in a staff office without line authorities.

Another comment on the plan was that it failed to provide for consumer representatives in the field. The revised Department plan designates the Regional Directors or Secretary's representatives in the field to serve as consumer liaison.

As the result of another comment, the Department has added a provision to the plan for an annual open meeting in each of the regions to give consumers the opportunity to comment on programs, regulations and policies.

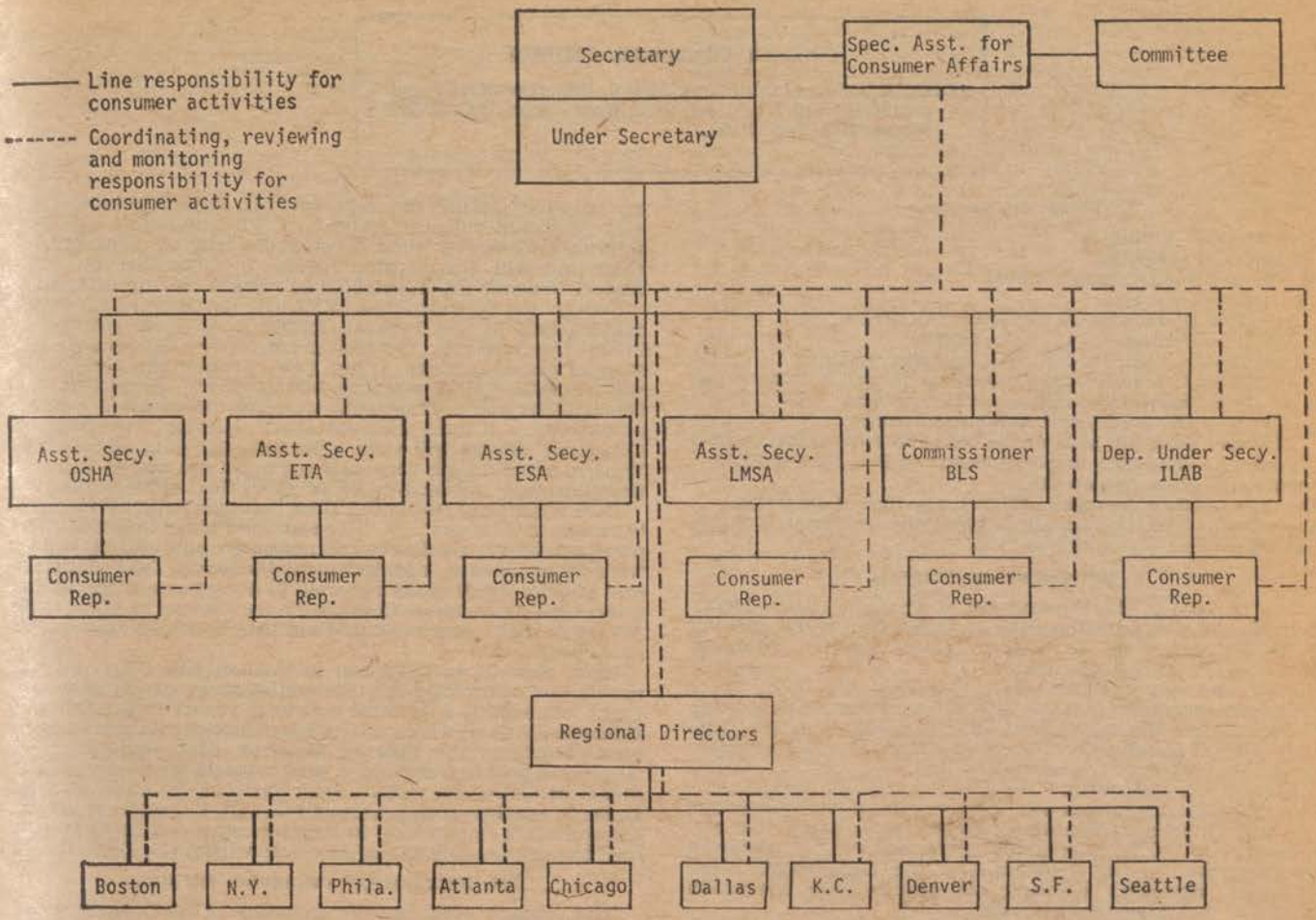
The Department will also increase its efforts to publish consumer materials in languages other than English to better serve the minority communities.

Several consumers suggested that the Department include provisions for a toll-free telephone to connect consumers with regional offices. While the Department does not currently have the funds to undertake this project, several agencies now have toll free numbers and others are planning to fund this type of activity as part of their consumer affairs programs.

Public Citizen commented that the plan fails to provide for analyzing consumer complaints as an index of the Department's overall performance and as the basis for possible policy revisions or changes.

The Department plan does provide for the inclusion of consumer information in the evaluation process of each agency. On a Department-wide basis, this task is part of the review and coordinating function which the Special Assistant for Consumer Affairs will perform and this point will be included in the guidelines and procedures to be issued for implementing the Department's plan.

APPENDIX C
CONSUMER AFFAIRS ORGANIZATION CHART



DEPARTMENT OF TRANSPORTATION

Consumer Representation Plan

PRIMARY CONSUMER CONTACT

Director, Office of Consumer Affairs, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 Phone: 202–426–4542.

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I. STATEMENT OF PURPOSE

The purpose of the Department of Transportation (DOT) Consumer Representation Plan is to accelerate the opening of DOT's operations to public scrutiny and to consumer participation in decisionmaking.

First, the plan outlines what DOT does and shows where consumer representation fits into the transportation picture. It summarizes the missions of DOT's operating administrations and also indicates where the consumer affairs officers are located within those administrations.

Second, the plan outlines the opportunities for communication between consumers and DOT. It explains how consumers can make known complaints and opinions, and how they can take part in DOT's rulemaking, policymaking, and program development. It also explains how the Department seeks and uses consumers' opinions, and how it keeps consumers informed on transportation issues.

Third, the plan makes consumer representation a matter of Departmental policy by specifying that all elements of DOT shall: (1) strengthen procedures for being responsive to consumers' needs and concerns; (2) solicit consumers' opinions; and (3) support consumer participation in Departmental activities.

The Department of Transportation encourages comments from consumers as it implements this Plan.

II. EXECUTIVE SUMMARY

Responsibility for consumer representation in the Department of Transportation (DOT) rests with: the Assistant Secretary for Environment, Safety, and Consumer Affairs; the Director of the Office of Consumer Affairs in the Office of the Assistant Secretary for Environment, Safety, and Consumer Affairs; and six consumer affairs officers in the Department's operating administrations.

Consumers are invited to comment on the progress of this Plan and on all DOT programs and decisions. Consumer mail should be addressed to the Department's consumer affairs officers. It will be answered or acknowledged within 15 days.

To solicit consumers' comments, DOT uses such methods as requiring applicants for funds to involve citizens in the local planning process, public hearings, liaison with consumer organizations, and advisory committees. DOT will find ways to broaden and strengthen its present methods for soliciting and using consumers' comments, including the development of a departmentwide system for analyzing consumer mail and for disseminating these analyses within the Department.

In rulemaking, DOT will: follow notice-and-comment procedures even in exempted areas where there is a substantial public interest in a proposed rule; use Advance Notices of Proposed Rulemaking to the fullest extent possible; allow at least 45 days for public comment on each proposed rule; and evaluate and publish the costs, benefits, and other impacts of each proposed rule. In addition, DOT will follow specified internal procedures when developing costly or controversial rules and will also provide regular opportunities for consumers to comment on established rules and grant programs.

Concerning policymaking, DOT will—as often as is practical—publish in the FEDERAL REGISTER Advance Notices of Policy Development, requesting consumer comment at the earliest planning stage. Other new participatory techniques will be developed. In response to consumers' suggestions, the Department will explore techniques for increasing consumer participation in local transportation planning. The Office of Consumer Affairs will work with the operating administrations to expand such consumer participation and to increase the consumer responsiveness of DOT field office staffs.

DOT's consumer-oriented press releases will be stamped "Consumer Advisory" or "Request for Public Comment," as appropriate. Press releases and consumer publications will be written in concise, non-technical language. DOT decisions and policies will be fully reported to consumers, with reasons and expected impacts. Consumers are invited to place their names on DOT consumer mailing lists by use of the coupon in Appendix C.

Each element in DOT will implement this Plan and will develop its own consumer representation program. Each element will submit a detailed quarterly report to the Office of Consumer Affairs which will oversee implementation and will also publish in the FEDERAL REGISTER, each fiscal year, an Annual Report to Consumers, with requests for comment. The Office of Consumer Affairs will continue to work with all Departmental elements, through the DOT Consumer Affairs Coordinating Committee, to increase consumer participation and to advance consumers' interests within the Department.

III. PRIMARY ORGANIZATIONS INVOLVED

The primary organizations involved in the Department of Transportation Consumer Representation Plan are the Office of Consumer Affairs in the Office of the Assistant Secretary for Environment, Safety, and Consumer Affairs and the following operating administrations within the Department: the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, the National Highway Traffic Safety Administration, the U.S. Coast Guard, and the Urban Mass Transportation Administration.

IV. DEPARTMENTAL PLAN

(1) HOW CONSUMERS ARE REPRESENTED IN DOT

The U.S. Department of Transportation (DOT) fosters the development and maintenance of a safe, efficient, and effective national transportation system for the movement of people and goods. The responsibilities of the Secretary of Transportation include advising the President on national transportation affairs and directing the activities of the Department. DOT is composed of the Office of the Secretary and seven operating administrations.

In the Office of the Secretary, responsibility for consumer activities rests with the Assistant Secretary for Environment, Safety, and Consumer Affairs, who is appointed by the President and reports to the Secretary. The Assistant Secretary's staff includes three offices which have a direct impact on the consumer—the Office of Environmental Affairs, the Office of Safety Affairs, and the Office of Consumer Affairs.

The Office of Consumer Affairs is headed by a director who reports to the Assistant Secretary for Environment, Safety, and Consumer Affairs.

Six of DOT's seven operating administrations have direct consumer responsibilities. In each of these six operating administrations, responsibility for consumer activities rests with a staff member who has been identified by the head of

the administration. The titles and placement of the operating administrations' consumer affairs officers are:

Federal Aviation Administration. Chief of the Community and Consumer Liaison Division; reports to the Assistant Administrator for Public Affairs.

Federal Highway Administration. Associate Administrator for Planning; reports to the Administrator.

Federal Railroad Administration. Consumer Affairs Officer in the Office of Public Affairs; reports to the Public Affairs Officer.

National Highway Traffic Safety Administration. Chief of the Office of Consumer Services; reports to the Director of the Office of Public Affairs and Consumer Services.

United States Coast Guard. Chief of the Information and Administrative Staff; reports to the Chief of the Office of Boating Safety.

Urban Mass Transportation Administration. Director of Public Affairs; reports to the Administrator.

The consumer function of each DOT element and the responsibilities of their consumer affairs officers are described in Appendix A.

Consumer affairs activities throughout DOT are coordinated through the DOT Consumer Affairs Coordinating Committee.

(2) HOW CONSUMERS CAN CONTACT DOT

DOT welcomes consumer correspondence. All consumer mail should be sent to the consumer affairs officers in the operating administrations:

Fred Pelzman, Chief, Community & Consumer Liaison Division, Federal Aviation Administration, Washington, D.C. 20591. Phone: 202/426-1960.

W. Lee Mertz, Associate Administrator for Planning, Federal Highway Administration, Washington, D.C. 20590. Phone: 202/426-0585.

Eric Hanson, Consumer Affairs Officer, Office of Public Affairs, Federal Railroad Administration, Washington, D.C. 20590. Phone: 202/426-0881.

Gilbert Watson, Chief, Consumer Services, Office of Public Affairs & Consumer Services, National Highway Traffic Safety Administration, Washington, D.C. 20590. Phone: 202/426-0670.

Cdr. Manuel Tubella, Jr., Chief, Information & Administrative Staff, Office of Boating Safety, U.S. Coast Guard, Washington, D.C. 20590. Phone: 202/426-1080.

Lloyd Schwalb, Director, Office of Public Affairs, Urban Mass Transportation Administration, Washington, D.C. 20590. Phone: 202/426-4043.

When issues concern more than one operating administration, consumers should write to: Ann Uccello, Director, Office of Consumer Affairs, DOT, Washington, D.C. 20590. Telephone: 202/426-4518.

Individual consumers and consumer organizations wishing to meet with DOT staff members should write or call the appropriate consumer affairs officer listed above or check local phone directories, under "U:S: Government," for DOT field offices.

To assure that consumer mail will receive prompt helpful answers, DOT follows these procedures:

Each consumer affairs officer is responsible for acknowledging consumers' letters or for forwarding them to the proper program specialist or administrative officer for reply.

When a complaint deals with a matter or a product that is not related to DOT's responsibilities, the consumer affairs officer will forward the letter to the appropriate government agency or manufacturer and will notify the consumer of this action.

It will be Departmental policy to respond to all consumer mail within 15 working days. If additional time is required for locating information, solving problems, or following up on complaints, the consumer will be so informed.

(3) HOW DOT SOLICITS AND USES CONSUMERS' OPINIONS

A. Soliciting Consumers' Opinions

To obtain consumers' viewpoints and advice on specific transportation issues, as well as on general policy and program planning, DOT uses a variety of techniques:

Citizen Participation in Local Planning. DOT requires applicants for DOT funds, such as airport and transit authorities and State highway departments, to hold public hearings and engage in other citizen participation efforts at the local level. Hearings cover such topics as airport and highway locations and mass transit projects. Citizen views of the economic, social, and environmental effects of the project for which funding is being sought must be solicited at these public hearings and at other steps in the planning process.

Public Hearings. In developing policy and regulations, the Department holds public hearings on issues of concern to consumers, such as transportation of the elderly and handicapped, consumer representation, noise abatement, and automobile safety standards. The records of these hearings are made part of the Department's formal record.

Meetings. Local conferences, workshops, and informal planning meetings with the public are organized by field personnel, and similar meetings and informal listening sessions are held at DOT headquarters in Washington.

Attitudinal Studies. A variety of techniques such as attitudinal studies and market research is used as appropriate to test public views.

Consumer Liaison. The Department maintains liaison with consumer organizations and with State and local consumer protection agencies through personal contacts and through attendance at conventions. In addition, consumer periodicals are monitored regularly. All of these efforts will be strengthened, to bring DOT consumer affairs officers into closer contact with consumer organizations and government agencies outside DOT.

Hotlines. The National Highway Traffic Safety Administration has been operating an experimental hotline since October 1975, first in a ten-state area and more recently in the continental U.S. The purpose is to gather consumers' reports on auto safety defects and to respond to their inquiries. If this pilot project proves to be a productive and cost-effective technique, other DOT elements will consider installing similar telephone hotlines.

Mailing Lists. All elements in the Department are developing new consumer mailing lists that will include individual consumers as well as consumer organizations. These will be used in an experimental program under which consumers will be notified of and asked to comment on significant policy, program, and rulemaking activities. The cost effectiveness of this experiment will be evaluated. DOT invites consumers to place their names on these mailing lists by using the coupon printed in Appendix C.

Other methods used to solicit consumer comments on DOT rules, policies, and programs are described in Section (4).

Advisory Committees. The Department's advisory committees deal with subjects ranging from highly technical areas to semi-technical topics of significant interest to consumers. In the Office of the Secretary, the Citizens' Advisory Committee on Transportation Quality acts as a citizens' sounding board for the Department, assessing transportation policies and programs from a citizens' viewpoint, and recommending new initiatives to the Secretary. Other advisory committees that have occasion to deal with consumer concerns include the National Boating Safety Advisory Council, the National Motor Vehicle Safety Advisory Council, the National Highway Safety Advisory Committee, and the Youths Highway Safety Advisory Committee. It is the Department's policy to seek increased consumer participation on advisory committees.

B. Using Consumers' Opinions

The Department will increase its efforts to distribute reports to all appropriate staff members which will summarize the information gathered by the techniques described above. It will be DOT policy to give careful consideration to these consumer viewpoints when developing Departmental policies, programs, regulations, and legislation.

The Department will initiate a comprehensive system for responding to and analyzing consumer inquiries, comments, and complaints received by all elements of the Department. Periodic reports of these analyses will be distributed throughout the Department. These reports will be given careful consideration during Departmental decisionmaking and policymaking and will also be publicized.

In addition, each element in the Department will explore ways to make the best use of the consumer mail. Examples of such internal use are: the National Highway Traffic Safety Administration's system for computerizing consumer complaints about auto safety defects and the Coast Guard's system for reports of boat defects. This data is used to initiate defect investigations and to develop and check compliance with automobile safety standards and boating safety rules.

(4) HOW CONSUMERS CAN PARTICIPATE IN DOT'S RULEMAKING, POLICYMAKING, AND PROGRAM DEVELOPMENT

DOT's full commitment to consumer participation in transportation decisionmaking was reaffirmed by the Secretary of Transportation in "A Statement of National Transportation Policy" (September 17, 1975) which declared: "Government must . . . promote consumer participation in public decisionmaking. . . . The consumer should be an active participant in the formulation of transportation policy."

To implement this policy, all elements of DOT will review and strengthen responsiveness to consumer concerns and will more actively solicit consumers' views in rulemaking and policy development.

A. Rulemaking

Like all Federal agencies, DOT's rulemaking procedures follow the notice-and-comment requirements of the Administrative Procedures Act. DOT, however, has also adopted internal procedures that enhance the opportunities for consumer participation in rulemaking. These efforts stem from two separate actions. One was a study begun in 1972; the other was a policy statement published in April 1976.

(1) *1972–1975.* In 1972, at the direction of Secretary Volpe, the Department's Office of Consumer Affairs began an examination of current rulemaking procedures at DOT. During this study, the Office of Consumer Affairs convened a workshop of consumers and specialists to explore and suggest ways to improve DOT's rulemaking procedures.

As a result of its study, the Office of Consumer Affairs published in 1974 "Consumer Involvement in Rulemaking." [1] This report made five recommendations to the Secretary; it also included the consumer workshop's informal suggestions concerning ways to involve consumers. The recommendations were endorsed by Secretary Brinegar in August 1974, and in May 1975 Secretary Coleman directed their implementation.

Three of the five recommendations created new procedures designed to broaden opportunities for consumer comment. They are summarized here:

- That DOT operating administrations follow the notice-and-comment procedures for rules that relate to public property, loans, grants, benefits, or contracts, and have a substantial public interest even though these rules are exempt from notice-and-comment procedures.
- That Advance Notices of Proposed Rulemaking (ANPRMs) be used to the fullest practical extent.
- That at least 45 days be allowed for public comment on proposed rules.

The other two recommendations were administrative and provided for (1) compilation and publication of periodic reports on changes in policies and/or procedures and on special activities and techniques for consumer involvement in rulemaking and (2) designation by each DOT element of a liaison person knowledgeable in rulemaking procedures to work with the Office of Consumer Affairs to stimulate consumer participation in rulemaking.

(2) *1976.* On April 16, 1976, DOT published a notice in the FEDERAL REGISTER announcing three internal Departmental policies designed to improve the analysis and review of Departmental regulations. Under these policies, consumers are assured of: (1) an evaluation of likely impacts (including costs, benefits, and other data) for consideration in commenting on DOT proposed rulemaking; and (2) a role in the systematic review of existing regulations.

The three Departmental policies are summarized here:

Policy I. Before issuing a Notice of Proposed Rulemaking, each Departmental element will evaluate the probable impacts of the proposal. This evaluation will be used in deciding whether to issue the proposal and will be summarized in the notice of proposed rulemaking. The evaluation will include estimates of cost and benefits and other impacts on industry, on consumers, and on the Federal, State, and local governments resulting from the proposal. Before issuing a final regulation, the Departmental element will repeat the same procedure.

Each Departmental element will evaluate and document the probable impacts before adopting administrative requirements for grant programs if the requirements involve important policy changes or if they will probably create significant costs to Federal, State, and local governments, to industry, or to consumers. Each evaluation will include estimates of costs and benefits and other impacts resulting from the changed requirement.

An evaluation is not needed if the grant program requirement or publication of the proposed regulation is required by law, or if the head of the Departmental element decides that the expected impact is minimal. In each case of minimal impact, the head of the element will notify the Secretary in writing.

Policy II. For regulations that may be costly or controversial, the head of the Departmental element will notify the Secretary at least 30 days before issuing a Notice of Proposed Rulemaking. The Secretary will be told (1) the need for the regulation; (2) the substance of the regulation; (3) alternatives considered; (4) results of the evaluation; (5) anticipated positions of interested parties; (6) assessment of consumers' interests; (7) technological feasibility, if appropriate; (8) other pertinent data concerning the probable impact.

At least 30 days before a final regulation of this type is issued, the head of the Departmental element will notify the Secretary in writing.

Policy III. Each Departmental element will establish a structured system to provide regular opportunities for the affected public to comment on its regulations and significant grant program requirements. The purpose of this process is to judge whether present regulations and grant requirements are effective or necessary, or whether they should be revised to suit new situations.

B. Policymaking and Program Development

As often as is practical, elements of the Department will request consumers' suggestions concerning policies and programs which DOT plans to develop on subjects that significantly affect consumers. Such a request for consumer comment will be published in the FEDERAL REGISTER at the earliest stage of the planning process through the use of an Advance Notice of Policy Development or similar techniques. In this way, consumers will be brought into the planning process before the Department's position is established. Such DOT requests for consumer comment on policy and program development will be publicized through press releases, consumer mailing lists, and Departmental newsletters.

In addition, consumers can influence DOT policy and program development through public hearings, conferences with DOT officials, Departmental advisory committees, and other techniques described in Section (3). New participatory techniques will be developed, for it is Departmental policy to experiment with opportunities for consumer involvement and to be receptive to consumers' suggestions in this regard.

In line with this policy, DOT is planning to focus on a particular aspect of citizen participation that was requested by consumers. Among the comments on DOT's Proposed Consumer Representation Plan, there were suggestions that DOT support increased consumer participation in local transportation planning. In response, DOT will explore and develop new participatory techniques for ways to: (1) increase the responsiveness shown by DOT field office staffs to local consumers' concerns; and (2) expand opportunities for citizen participation in local transportation planning.

Recommendations based on this effort will be developed by the Office of Consumer Affairs, in consultation with the operating administrations and consumer organizations. As the recommendations are being formulated, proposed plans will be published in the FEDERAL REGISTER, with requests for comment.

(5) HOW THE DEPARTMENT INFORMS CONSUMERS

DOT staff members are now placing special emphasis on using clear, concise language and non-technical terms when preparing materials for publication. This approach will be followed in press releases, in publications written for the general public, and in notices published in the FEDERAL REGISTER. When DOT decisions and policies are described in these publications, effort will be made to explain clearly what result is expected from each proposed or final action.

When a press release reports on a DOT proposed regulation, it is conspicuously labeled "Request for Public Comment." When a press release announces news of special interest to consumers, the release is labeled "Consumer Advisory."

Major DOT decisions will be explained to the public in Departmental reports or statements. These statements will describe the opinions that consumers expressed on the issue and will also explain why various consumer preferences did or did

[1] Consumers who want a single free copy of this study may write to the Director, Office of Consumer Affairs, Department of Transportation, Washington, D.C. 20590.

not prevail. These statements will be summarized and publicized in Departmental press releases.

The consumer mailing lists being developed by all elements in the Department will be used to inform consumers of significant DOT actions and issues.

For urgent safety announcements, the Department uses radio and television public service announcements, pre-recorded messages to the media, safety bulletins, and press releases.

In addition to publishing booklets, fact sheets, and newsletters to inform consumers about transportation issues, the Department conducts consumer education programs. These range from presentation of boating safety classes to development of instructional materials for use in schools at all grade levels. Consumers who have questions about DOT publications or about education and information programs may write to the consumer affairs officers in the Office of the Secretary or the operating administrations.

(6) HOW DOT WILL MONITOR CONSUMER REPRESENTATION

Each element of the Department will have the responsibility for implementing this Consumer Representation Plan and for developing its own consumer representation program. Each element will report quarterly to the Office of Consumer Affairs concerning implementation of the Consumer Representation Plan.

The quarterly report submitted by each DOT element will include such information as: (1) *Consumer Participation in Rulemaking* (Were Advance Notices of Proposed Rulemaking published in the FEDERAL REGISTER on matters of substantial interest to consumers? On what subjects? How much comment time allowed? How many replies from consumers? What consumer viewpoints were stated? How many Notices of Proposed Rulemaking were published in the FEDERAL REGISTER on matters of substantial interest to consumers? On what subjects? How much comment time allowed? How many replies from consumers? What consumer viewpoints were stated?) (2) *Consumer Participation in Policy and Program Development* (Were requests for comment on policy and programs published in the FEDERAL REGISTER through the use of the Advance Notice of Proposed Rulemaking or similar techniques? On what subjects? How much comment time allowed? How many replies from consumers? What consumer viewpoints were stated? How many public hearings were held? On what subjects and where? How many meetings and conferences were held? On what subjects and where? How many public opinion polls were conducted, and on what subjects? What other techniques were used to solicit consumers' views?) (3) *Communications* (What consumer publications were produced? What press releases were sent out with the "Consumer Advisory" label and the "Request for Public Comment" label? What radio broadcast items were produced? What television public service announcements were produced?) (4) *Consumer Education Programs* (What exhibits were designed and where were they displayed? What instructional materials were prepared and how were they disseminated?)

The Office of Consumer Affairs will provide oversight of all elements' implementation of the Consumer Representation Plan. The Office of Consumer Affairs will publish in the FEDERAL REGISTER an Annual Report to Consumers, describing how each element of the Department offered opportunities for consumer representation during the the fiscal year. Consumer comments will be encouraged in order to increase the Department's responsiveness.

The Office of Consumer Affairs will work with all elements of the Department, through the Consumer Affairs Coordinating Committee (see Appendix A) to increase opportunities for consumer participation and to advance the interests of consumers.

APPENDIX A.—CONSUMER RESPONSIBILITIES AND FUNCTIONS IN DOT

OFFICE OF THE SECRETARY

The Assistant Secretary for Environment, Safety, and Consumer Affairs is appointed by the President, confirmed by the Senate, and reports to the Secretary. One of the six offices at the Assistant Secretary level in DOT, this individual is responsible for coordinating departmentwide programs concerning the consumer, transportation safety, security of passengers and cargo, the impact of transportation on the environment, and facilitation of the movement of goods and people throughout the transportation system. This Assistant Secretaryship was established in 1971 and its presence underscores the Department's commitment to developing significant consumer programs. The Assistant Secretary's staff includes three offices which have a direct impact on the consumer—the Office of Environmental Affairs, the Office of Safety Affairs, and the Office of Consumer Affairs, with its specific consumer responsibility.

The Office of Consumer Affairs is headed by a director who reports to the Assistant Secretary for Environment, Safety, and Consumer Affairs.

The Office of Consumer Affairs encourages two-way communication between DOT and consumers. Toward that goal, the office undertakes two kinds of activities: first, identifying consumers' needs and preferences, and presenting these views to the Department's policymakers and decisionmakers; and second, producing and distributing information to help consumers become more knowledgeable about transportation goods and services. In addition, the Office of Consumer Affairs advances the development of consumer projects and programs throughout DOT by working with the Department's six operating administrations that impact on consumers—the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, the National Highway Traffic Safety Administration, the Urban Mass Transportation Administration, and the U.S. Coast Guard.

The DOT Consumer Affairs Coordinating Committee is chaired by the Director of the Office of Consumer Affairs. The Committee is made up of representatives from each operating administration, each assistant secretary's office, the Office of the General Counsel, and the Office of Public Affairs. The Committee develops and coordinates departmentwide approaches and programs to advance consumer participation in DOT programs and policies, and to stimulate consumer awareness and education.

OPERATING ADMINISTRATIONS

Consumer responsibilities and functions are described here for six of DOT's operating administrations. The Department's seventh operating administration, which does not have a direct consumer mandate, is the St. Lawrence Seaway Development Corporation, a self-sustaining Federal corporation that develops and maintains the U.S. portion of the Seaway. The Corporation is encouraged by statute to hold hearings and to solicit comments when making rules and setting tolls or charges.

The head of each operating administration is appointed by the President, confirmed by the Senate, and reports to the Secretary of Transportation. The heads of the operating administrations are called "Administrators," except for the Coast Guard which is headed by a Commandant.

FEDERAL AVIATION ADMINISTRATION (FAA)

The Federal Aviation Administration is responsible for promoting and regulating aviation safety; developing and operating a national airspace system to ensure the safe and efficient use of U.S. airspace by civil and military aircraft; protecting the environment from aircraft noise, sonic boom, and emissions; fostering the development of civil aviation; and promoting, especially through airport development grants, a national system of public airports. To carry out its responsibilities, the FAA issues and enforces regulations for the certification of aircraft, airmen, airports, and air agencies; for the use of the U.S. airspace; and for air operations.

Organization for Consumers

The Chief of the Community and Consumer Liaison Division in the Office of the Assistant Administrator for Public Affairs is the consumer affairs officer for FAA. The Assistant Administrator reports directly to the Administrator.

The Community and Consumer Liaison Division monitors FAA activities relating to consumers and advises the Assistant Administrator for Public Affairs on ways to improve responsiveness to consumers. The division fosters consumer involvement in FAA rulemaking by special efforts to inform consumers of proposed rules and to encourage their attendance at hearings and conferences. The Community and Consumer Liaison Division also responds to consumer complaints and inquiries and prepares information materials for distribution to consumers and the news media.

FEDERAL HIGHWAY ADMINISTRATION (FHWA)

The FHWA improves highway transportation systems and their operation in cooperation with the States, and grants financial aid to States for highway construction and safety improvements. It is responsible for a national regulatory and enforcement program covering safety of commercial motor carriers engaged in interstate and foreign commerce and motor carriers transporting hazardous materials. It also administers the Highway Beautification program and with NHTSA promotes State and local highway safety.

Organization for Consumers

The Associate Administrator for Planning is the consumer affairs officer in FHWA. He reports directly to the Administrator, and is the principal advisor to the Administrator on all FHWA planning and policymaking. He participates fully in FHWA policy determinations and program formulation and directs the activities of the Office of Program and Policy Planning and the Office of Highway Planning. His office has responsibility for coordinating consumer representation in FHWA.

FEDERAL RAILROAD ADMINISTRATION (FRA)

FRA promotes rail safety, establishes safety standards for rail operations, conducts research into rail safety and improved technology and operations, and investigates train accidents. FRA is also involved in railroad reorganizations, disbursal of public funds, testing, and in operating the Alaska Railroad.

Organization for Consumers

Consumer representation in FRA is the responsibility of the Consumer Affairs Officer in the Office of the Administrator. The Consumer Affairs Officer maintains contact with consumers and consumer organizations and other government agencies, and advises the Administrator, through the Public Affairs Officer, of the impact of present and proposed FRA policies, programs and legislation on consumers and other railroad users.

The Consumer Affairs Officer is responsible for broadening consumer participation in rulemaking, and for conducting a nationwide consumer information program concerning safety defects, railroad accident advisories, and consumer information passenger service and protection bulletins.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA)

NHTSA reduces deaths, injuries, and property losses caused by highway accidents in the United States through enforcement of Federal motor vehicle and equipment performance standards, investigation of reported safety-related motor vehicle defects, enforcement of laws requiring the recall and free remedy of such defects, and development of various highway safety standards.

Organization for Consumers

The Chief of the Office of Consumer Services is the consumer affairs officer in NHSTA. He reports to the Administrator through the Director of the Office of Public Affairs and Consumer Services.

The Office of Consumer Services analyzes, appraises, and evaluates the responsiveness, scope, and relevance of NHTSA's consumer services effort, provides guidelines or evaluates means by which other divisions of NHTSA may improve their consumer-oriented efforts, and recommends changes, innovations, or procedural improvements to make NHTSA's programs more responsive to consumers' needs and views. It also provides advice, assistance, and measurement of the impact of present and proposed policies and programs on consumers.

The Office informs consumers through the news media and by disseminating safety literature on special hazards, monthly reports of investigations, and through consumer fact sheets.

UNITED STATES COAST GUARD (USCG)

The USCG is a multimission agency charged with primary responsibilities in the areas of maritime safety, law enforcement, and the facilitation of transportation in the marine mode. The Coast Guard is one of the Armed Forces of the United States.

The specific program directly affected with consumer involvement is that of Recreational Boating Safety, and it is, therefore, the program subject to the Consumer Representation Plan. This program makes, enforces, and supervises Federal standards for the manufacture and operation of recreational boats. The Coast Guard Auxiliary, an organization of 48,000 volunteers, provides courtesy examination of boats for compliance with standards and requirements; offers courses in small boating, basic seamanship, and motorboat handling; and disseminates general boating safety information.

Organization for Consumers

The Chief of the Information and Administrative Staff is the Consumer Affairs Officer in the Coast Guard. He reports to the Commandant through the Chief of the Office of Boating Safety and is responsible for coordinating the activities of the National Boating Safety Advisory Council which advises the Coast Guard on boating safety rulemaking and other major boating safety matters, administering a boating safety information program which utilizes national mass media, overseeing the preparation of regulations within the Office of Boating Safety, and responding to consumer inquiries.

URBAN MASS TRANSPORTATION ADMINISTRATION (UMTA)

UMTA administers grant programs to benefit consumers by providing improved transit service. These include: grants to aid States and other pubic bodies in financing mass transit facilities, operations, and equipment in urban areas; grants for research, development, and demonstrations to improve mass transportation service; and grants for technical studies for planning, engineering, and design of urban mass transportation projects.

UMTA also provides grants to public agencies and private nonprofit organizations for the transportation needs of the elderly and the handicapped. In addition, UMTA focuses on providing adequate mobility for other groups of the transportation disadvantaged, and provides grants for mass transit needs to smaller communities, including rural areas.

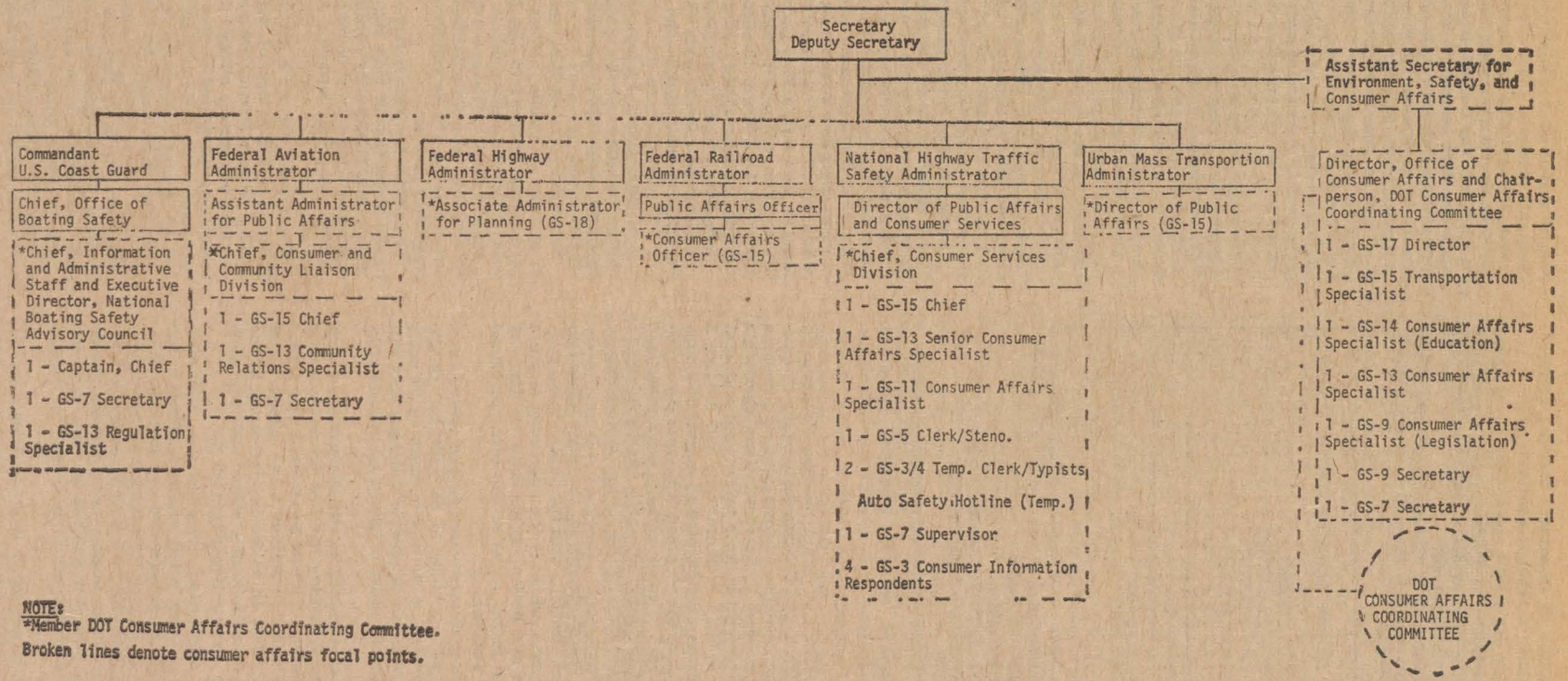
Organization for Consumers

The Director of Public Affairs in the Office of the Administrator is the consumer affairs officer for UMTA. The Director advises UMTA management on ways to increase agency responsiveness to consumer concerns, responds to consumer complaints, directs UMTA's public affairs programs providing information to consumers, conducts public hearings on matters of concern to consumers, and monitors UMTA's effectiveness in providing other opportunities for consumer participation in rulemaking, policy and program development.

APPENDIX B

U.S. DEPARTMENT OF TRANSPORTATION

Organization for Implementing the Proposed Consumer Representation Plan



NOTE:
*Member DOT Consumer Affairs Coordinating Committee.
Broken lines denote consumer affairs focal points.

APPENDIX C.—ANNOUNCEMENT OF CONSUMER MAILING LISTS, U.S. DEPARTMENT OF TRANSPORTATION

You may use this coupon if you wish to have your name added to one or more of the Department of Transportation's consumer mailing lists. The lists will be used as described in Section (3)A of the DOT Consumer Representation Plan.

Check the boxes to show which DOT elements interest you and mail the coupon to: Office of Consumer Affairs, Office of the Secretary, DOT, Washington, D.C. 20590.

Please place my name on the following DOT consumer mailing lists:

____NHTSA ____FAA
____UMTA ____FHWA
____USCG ____FRA
____OST/OCA

Name _____

Organization _____

Street _____

City, State, ZIP Code _____

FAA—Federal Aviation Administration.
FHWA—Federal Highway Administration.
FRA—Federal Railroad Administration.
NHTSA—National Highway Traffic Safety Administration.
UMTA—Urban Mass Transportation Administration.
USCG—U.S. Coast Guard.
OST/OCA—Office of the Secretary—Office of Consumer Affairs.

APPENDIX D.—PUBLIC COMMENTS ON THE PROPOSED CONSUMER REPRESENTATION PLAN, U.S. DEPARTMENT OF TRANSPORTATION

(JANUARY THROUGH MAY 1976)

In response to the publication of the Department's proposed Consumer Representation Plan in the FEDERAL REGISTER OF November 26, 1975, the Department received nearly one hundred responses from individuals, consumer groups, trade associations, charitable organizations, associations representing State government and local officials, community action agencies, corporations, and unions. A substantial number of comments were directed at specific programs of the Department rather than at the proposed Consumer Representation Plan. Approximately half of the comments were submitted in writing. The others were presented at public meetings and at workshops held in conjunction with White House Conferences on Consumer Representation Plans.

A significant number of the comments on the Plan related to methods for improving communications with the public. It was suggested that the FEDERAL REGISTER, which is the publishing medium for many Government rules and notices, is not read regularly by consumers, and explanations in lay terms of the effect of official notices are often necessary but lacking.

The Department is responding to these comments in several ways. First, since official actions will continue to be published in the FEDERAL REGISTER, the Department is striving to make its issuance more readable to the lay person and to provide materials that will allow consumers to comprehend the basic impact of matters published in the Register.

The Plan proposes better communication with the public through more effective use of consumer mailing lists. Respondents agreed with this idea and asked that their names be placed on particular mailing lists. Such lists permit information to be disseminated quickly to persons or groups likely to be directly interested in the subject. Appendix C in the Plan includes a coupon allowing consumers to request inclusion on any Departmental list.

The National Newspaper Association suggested that advertisements in local newspapers at times when decisions affecting the locality are being made would be an effective way to notify consumers of important matters. By Federal law, the Government's purchase of newspaper advertising is subject to specific administrative procedures. In certain specified cases, however, such notices may be a useful and permissible tool to expand public awareness, and consideration will be given to it in situations involving substantial consumer concern.

The Center for Auto Safety suggested that the public service advertising sponsored by the Department is of interest to consumers, and recommended more public involvement in the choice of subjects and approval for the advertising. The Georgia Easter Seal Society also advised greater use of public service advertising on the electronic media.

The Department's public service advertisements are either prepared in cooperation with The Advertising Council, Inc. or have its approval. The Council is composed of advertising agencies that volunteer their services to assist government in producing public service messages. All major programs of the Council must be approved by a representative advisory committee before they are accepted for sponsorship by the Council. In addition, the Department has sought advice from its citizens' advisory committees on publicity techniques to obtain greater public compliance with transportation energy conservation efforts. Individual departmental administrations routinely consult with their appropriate advisory groups, other government agencies, and private sector organizations concerning advertising content and approaches. These methods will continue to be explored and used when appropriate.

There was favorable comment on the use of the labels "Consumer Advisory" and "Request for Public Comment" on news releases and other information of particular interest to consumers. The Department is widening the use of this tool to enable consumers and the media to distinguish important matters of public interest from routine informational releases.

There were a number of recommendations on the ways in which consumer views may be presented to the Department, including emphasis on the responsiveness of regional offices of Federal Government agencies.

Consistent with the advice given, the Department has committed itself to increasing field office responsiveness to consumers' concerns and also to expanding opportunities for citizen participation in local transportation planning. The Department's intentions in this regard are described in Section (4) B of the Plan.

The South East Community Organization of Baltimore suggested that regulations be issued specifying how much weight should be given to consumer views expressed at hearings on highway plans. Current departmental procedures require that comments must be identified and responded to, especially in environmental impact statements. The legitimate interests of many parties and the range of views expressed would make it difficult to generalize as to which points of view should receive the greatest weight in the final decision. The South East Community Organization also suggested the creation of a DOT "ombudsman." The Office of Consumer Affairs in the Office of the Secretary has the responsibility for advancing the interest of consumers in DOT.

The Maryland Citizens Consumer Council advised against the use of public opinion polls to determine consumer attitudes. The Department understands the limitations inherent in such polls and will participate in them only after judicious review of the need and circumstances. In selected instances, market research techniques may be a useful supplement to consumer views gathered by direct communication with consumers and consumer advocate organizations.

The Public Interest Economics Foundation urged greater reliance by agencies on public interest economic research. The suggestion is particularly relevant to the Department's statement in its Proposed Plan that the public's views will be sought regarding the costs of possible Government action in Advance Notices of Proposed Rulemaking. The Foundation's judgments and those of other social scientists will be valuable at that and at other stages in the regulatory process.

The Center for Auto Safety suggested that consumers be involved in the prepartion of both legislative and budgetary proposals. The Department continually considers consumers' views; however, the most direct way for consumers to affect these proposals is to provide the Congress with testimony and written views during its proceedings.

The Center for Auto Safety also suggested that Department officials maintain logs of telephone conversations with outside parties. When such conversations relate to pending regulatory dockets, DOT officials are obliged to record the contact and submit the information presented to the docket. In other cases, however, the requirement would be extremely burdensome from the administrative standpoint, and cannot be imposed as a general proposition.

Congress Watch and the Center for Auto Safety urged support for bills now pending in Congress to allow agencies to reimburse consumers for costs incurred while participating in agency proceedings. The Department is considering this matter and the possible alternatives to the approaches presently before the Congress.

The proposed Plan stated that information would be sought through the Advance Notice of Proposed Rulemaking on potential costs and benefit of rulemaking actions that have a substantial impact on consumers. Following implementation of such types of regulations, an analysis of the costs and benefits will be made. Congress Watch suggested that these analyses are inappropriate

since so many of the Department's rules concern safety rather than economic issues. Standard Oil of Indiana and the National Association of State Aviation Officials recommended that detailed cost-benefit analyses be prepared for the Advance Notice and refined at each stage of the rulemaking process.

We have given serious thought to both these comments and have chosen not to adopt them. Although it is true that a safety regulation will often not lend itself to formal analyses of costs and benefits, this does not automatically mean that no useful information exists on its costs/benefits to consumers. However, the Department will not belabor such analyses by attempting to do them on rules that have a negligible impact on consumers or for which we know beforehand that the evidence will not be relevant to the final decision. The Department will take the time to seek the specific information it needs to make the analysis a valuable effort.

The suggestion that comprehensive analyses of costs and benefits be prepared at the Advance Notice stage is considered impractical. Often such Advance Notices are general in content, and indicate an uncertainty by the Government as to the best way to proceed into rulemaking. To impose a requirement for a formal analysis at that state is unrealistic. A more useful step, as outlined in the Consumer Representation Plan, is to ask consumers who offer comments in response to an Advance Notice also to assess the costs and benefits of their suggestions. The information submitted at that point would be useful to the Department in assessing the impact of its regulations at later stages of the rulemaking process.

The Department was criticized for not having published as DOT Orders the recommendations contained in the DOT Office of Consumer Affairs report to the Secretary entitled "Consumer Involvement in Rulemaking." The recommendations, endorsed by Secretary Brinegar and directed to be implemented by Secretary Coleman, are now part of the DOT Consumer Representation Plan.

Several comments were received relating to complaint handling by the Department. One proposed that the Hotline concept now used by the National Highway Traffic Safety Administration (NHTSA) be adopted by other agencies as well. As provided in the Plan, other administrations in DOT may decide to adopt the technique if the NHTSA experiment is successful.

Congress Watch expressed concern that the study recommendations of the Technical Assistance Research Programs, Inc., prepared for the Office of Consumer Affairs in HEW, had not been adopted by the National Highway Traffic Safety Administration. The two recommendations involved use of form letters and logging of telephone conversations. Both of these were implemented within four to six weeks after the recommendations were received by NHTSA.

Regarding the Proposed Plan's designation of consumer focal points, several commenters urged that the individuals chosen have sufficient standing in the organization to be able to present consumer views to the highest levels in the Department.

Congress Watch asked that consumer representatives be subject to Senate approval and responsible to the Congress. The Department's highest ranking consumer representative, the Assistant Secretary for Environment, Safety, and Consumer Affairs, is a Presidential appointee subject to Senate confirmation. Providing for such approvals at each lower level within the Department having consumer involvement is an unnecessary burden, and would not significantly affect the overall accountability of the Department's program to the Congress or consumers.

Another comment asked for more specificity in the description of the consumer affairs officers' duties. These descriptions have been included in Appendix A of the Plan.

In another area, the Chicago Model Cities group recommended that a percentage of DOT advisory committee members come from economically disadvantaged communities. The membership of many of these committees is often specified by statute. The setting of a fixed percentage from any group, however, is an unnecessary constraint on the Department's ability to create a balanced advisory committee. Where the Department does have discretion, it will renew its efforts to attain broader representation.

Several comments were received urging that an evaluation of the administrations' efforts to implement the Plan be published and consumer views sought. Because of the importance of the Plan, the Department will publish, in the media (including the FEDERAL REGISTER), an Annual Report to Consumers describing how each element of the Department offered opportunities for consumer representation during the fiscal year. Consumer comments will be encouraged in order to increase the Department's responsiveness.

Two other sets of comments on DOT's Consumer Representation Plan should be noted:

(1) Following the close of the comment period on the proposed Plan, a statement summarizing the proposed Plan was submitted to the House Government Operations Subcommittee on Commerce, Consumer, and Monetary Affairs. The statement was presented by DOT Assistant Secretary for Environment, Safety, and Consumer Affairs, Judith T. Connor, who had been invited to testify by the Subcommittee's Chairman, Benjamin S. Rosenthal. Mrs. Connor's summary of the proposed Plan also described the consumer programs that already existed in the Department prior to the President's directive that Executive Departments develop Consumer Representation Plans. Mr. Rosenthal questioned whether the staff of seven in the Office of Consumer Affairs could adequately represent consumers' interests in the Department, which employs 110,000 persons.

(2) In the course of developing a final Consumer Representation Plan, a draft of the final Plan was submitted to the President's Consumer Advisory Council for review. The Council commented favorably on the clear and simple style in which the Plan was written, on its listing of phone numbers as well as names and addresses of DOT's consumer affairs officers, and on DOT's intention to issue an Annual Report to Consumers.

VETERANS ADMINISTRATION

Consumer Representation Plan

PRIMARY CONSUMER CONTACT

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I. PURPOSE OF THE PLAN

The purpose of this Plan is to identify areas where consumer representation and participation in the decision-making process can be enhanced. The Consumer Representation Plan expands upon present channels of communication and sets forth formal guidelines for seeking and using consumer input. These views will be channeled to officials in a position to take action. They will be given appropriate consideration in VA decision-making.

The Veterans Administration's major objective is to provide service to veterans and their dependents. To fulfill this mission, the VA administers a variety of programs, including compensation, pension, education, vocational rehabilitation, insurance, home loans, burial, and health care and hospitalization. A careful analysis has been made of the major operating elements to determine the extent of present consumer involvement. Regulations and procedures were reviewed to determine how they can be made more responsive to consumers' needs.

One way in which consumer representation has been accomplished is through the VA's close working relationship with veterans' organizations. Veterans' programs and benefits which are administrated by the VA are prescribed by law; many organizations and individuals were contacted to see how the current system responds to the needs of veterans and their beneficiaries and how it can be improved. It has been a policy of the VA to keep these groups informed of upcoming decision points and invite them to offer their suggestions and criticisms; in this way they often have effected substantive changes in policies or regulations.

The earlier Proposed Consumer Representation Plan generated numerous letters and participation by many individuals in the White House Regional Conferences and the Washington Hearings. Comments and questions from these sources centered on the various programs and were summarized and reviewed carefully by program officials before drafting this final Plan. The data revealed a general acceptance of the proposed Plan and approval of continued efforts to be responsive to consumers. Also, prior to the publication of the final Plan, officials of the VA met with veterans' organizations' representatives to review and solicit additional comments or suggestions regarding the Plan. Those suggestions which could strengthen and improve the existing system are included in the new Planned Actions.

II. EXECUTIVE SUMMARY

The VA has three major operating organizations: the Department of Medicine and Surgery, the Department of Veterans Benefits, and the National Cemetery System. Although each of them is involved in providing benefits to veterans and their dependents, their functions are distinct and therefore are treated in separate plans, which together constitute the overall VA Plan. Although every staff element contributes to the service rendered, the three staff offices with the greatest consumer interaction are discussed. These are Information Service, General Counsel, and Board of Veteran Appeals.

To maintain continuing responsiveness to consumer needs, the VA has designated the Associate Deputy Administrator as Consumer Affairs Coordinator. Direct responsibility for consumer affairs has been vested in Veterans Assistance Service which, through its Veterans Service Divisions located in 50 states, serves as a single point of entry for all veterans with questions or problems. It is able to cross organizational lines to handle any inquiry. In addition to resolving complaints, Veterans Assistance Service is active in outreach efforts and coordinates the dissemination of information to grass-roots veterans. This is accomplished through Veterans Benefits Counselors, Veterans Representatives on Campus, a toll-free telephone network, mobile vans, and the solicitation of veterans' opinions of service through mailings.

Consumer input is received from six major sources: interested individuals; the veteran; the veterans' organizations; data gathered in ongoing evaluations and surveys conducted internally and by independent advisors; Advisory Committees; and community organizations. To be responsive to almost 30 million veterans and an even larger number of dependents is a significant challenge. There is an active outreach effort to keep veterans informed of their entitlement, rather than letting them seek out the VA on their own. The VA encourages dialogue with its consumers and, although every problem has not been averted, an effort is made to limit it to a one-time-only occurrence. The Administrator of Veterans Affairs takes a personal interest in finding out the problems and concerns of veterans, their dependents and survivors. Meetings with veterans' organizations are fostered. To insure adequate representation of the Vietnam Era veteran, two Vietnam veterans serve as staff assistants to the Administrator and his Deputy. These individuals maintain open dialogue with the youngest of our veterans and their various groups.

Consumer involvement is particularly visible at the hospitals and Regional Offices. The main functions of facilities at the local level are to provide service and to disseminate information. Hospitals, outpatient clinics, domiciliaries, and nursing homes furnish a full spectrum of health care; Regional Offices are the contact points for veterans wishing to obtain information about their benefits, and serve also as administration points for all non-medical programs. To make it easier for the veteran to get information about benefits, mobile vans travel to remote communities throughout the country. The VA also provides veterans with toll-free telephone numbers to Regional Offices in most states. A group of veteran specialists knowledgeable in VA programs answers the phones, records any problems, and relays them to the proper official for action. Another method of reaching the consumer is the Veteran Representative on Campus.

Because of the vast number of veterans served, the field stations are active in providing information to consumers regarding their veterans' benefits. They maintain close ties with the local media which disseminate press releases and informational material and cover newsworthy activities, thus enhancing consumer involvement. Veterans' organizations are given office space in hospitals and Regional Offices, which promotes communication with VA management on an informal and continuing basis. Additionally, field station directors hold monthly meetings with veterans' groups to advise them formally of VA activities and to receive their responses. Since

hospitals and Regional Offices are veterans' first points of contact with the VA, their interests generally are limited to specific situations. However, nonconsumers, such as lending institutions and schools, contribute constructive suggestions which aid consumer service by streamlining procedures.

It is the policy of all hospitals and Regional Offices to respond to all complaints in an expeditious manner. When a station discerns a pattern indicating a problem more than local in scope, contact is made with the appropriate Central Office officials. Complaints received at Central Office are accorded the same priority handling.

Veterans often influence changes in procedures through their complaints and suggestions. For example, when Central Office receives the same complaint from a number of hospitals (as when a badly designed form was causing long queues) they will change procedures systemwide. Direct correlation between these changes and the demands of the Vietnam veterans can be shown for: the elimination of much of the military jargon from VA hospitals, the establishment of Drug Dependence Treatment Centers, and the creation of a Vietnam veterans' committee at each hospital.

The VA has launched a new program evaluation system in which consumer impact will be a major consideration. Currently, two major areas are under evaluation: the education and Nursing Home Care programs. After the two pilots have been completed, the evaluation system will be expanded to other programs and used as a continuing self-check mechanism.

III. How the VA and its Consumers Interact

A. Department of Medicine and Surgery

The primary objective of the Department of Medicine and Surgery (DM&S) is the delivery of health care to veterans. To fulfill this mission, the VA operates 171 hospitals consisting of over 95,000 hospital beds. In addition to a full spectrum of services for hospitalized patients, DM&S offers a variety of programs aimed at keeping veterans as functioning members of their environments. Hospital based home care is a special medical service, administered by a hospital, which provides individual medical, nursing, social, and rehabilitative care to patients within their family setting. Outpatient care is available at VA medical facilities to veterans for all service-related disabilities. It is available also for any condition if the veteran has a service-connected disability of 80% or more and for other veterans to obviate the need for hospitalization. Veterans determined eligible by the VA and who are not within easy distance of VA facilities can avail themselves of fee-basis medical visits, with the VA paying the cost. The VA provides a full range of psychiatric care including therapy for family members if this would facilitate the treatment of the veteran. The domiciliary care program is designed to motivate the veteran to return to the community in a self-sustaining and independent living situation or to assist him/her to reach optimal usefulness in a protective environment. Nursing home care is provided to eligible veterans as needed.

An individual's health and medical care frequently take precedence over all other interests. Although the patient and the family are concerned deeply with the treatment program, the scientific nature of medical treatment often prevents direct consumer contribution. Yet, DM&S actively seeks consumer input and the patient's interests always are accorded primary consideration in the areas of service. There are a number of well-developed systems to assure the patient's views are obtained in a timely and constructive manner. These are utilized to determine the quality of service and the responsiveness of the health care facility to the patient's needs.

1. *Policy Advisory and Program Planning.* Unquestionably, the most significant consumer participation in policy and program planning is through the recipients of medical care. There are mechanisms, both formal and informal, whereby information is channeled to the appropriate management level. The VA organization for providing health care is highly decentralized, with broad authority delegated to the director and management staff of the hospital or other medical facility. There is extensive personal contact involved in medical care and the concerns of the patient (consumer) are relayed rapidly to local management through normal organizational channels. This input is reflected also in planning and policy decisions. The hospital and clinic staff members providing treatment are perhaps the most effective advocates of the consumer on the local level.

More formal mechanisms for consumer participation at the local level include veterans organizations, Veterans Administration Voluntary Service, patient satisfaction surveys, and local advisory committees. The close relationship between the VA and veterans' organizations has been especially helpful. Service officers of major veterans' organizations are provided office space in VA hospitals and serve as effective consumer representatives for both individuals and consumer groups. Top officials of the hospital meet regularly with these representatives with the objective of obtaining their advice relating to planning and policy decisions. The major organizations also employ National Service Officers who conduct surveys of hospitals and make formal reports with recommendations for action at both local and national levels. Further, these organizations are a major source of consumer representation in policy and planning decisions at the Central Office level. As a routine practice, all proposed changes in regulations and other administrative issues having significant impact on the VA medical program are furnished the veterans' organizations in advance, and their comments and recommendations always are given full consideration. Some organizations, such as the Paralyzed Veterans of America, represent specific groups with common problems and maintain close contact with appropriate program officials in the VA Central Office.

All VA hospitals are supported by large numbers of individual volunteers sponsored by veterans' and other local organizations. These volunteers primarily perform duties which place them in personal contact with patients at the hospital. They provide a vital link between the hospitalized patient and the community, and also serve as a channel of communication between patients and hospital management. Representatives of these volunteer groups meet with top hospital officials monthly to exchange views on means of improving service to patients. They also are kept informed, and consulted when appropriate, of plans and policy decisions that will affect the hospital community.

Local advisory committees are used in hospitals as a means of determining needs and obtaining recommendations for action to improve services. As a typical example, most hospitals have established a Vietnam Era Veterans Committee to increase responsiveness to these veterans. Although local advisory committees are composed primarily of members of the hospital staff, long-term patients frequently are included, and in all cases, committee members have close communication with both patients and veterans' organizations. At the national level, a number of advisory bodies have been constituted with membership from both government agencies and nongovernment institutions. Wherever appropriate, leaders of organizations having special interests in veterans' affairs and related fields are included in the membership of these groups. As a matter of policy, advisory committee members are chosen to provide wide representation from the various groups who work with or are served by the VA. They are chartered and function to provide advice and assistance to the VA in specific subject areas, and they contribute significantly in policy and program planning decisions. Standing committees on veterans' affairs have been established in both the House of Representatives and the Senate. These committees have the responsibility for reviewing VA activities and both have established subcommittees on hospitals and health which are concerned more directly with the activities of DM&S. These subcommittees hold hearings in Washington, D.C., and in various locations throughout the country, and obtain testimony from individuals and organizations regarding the VA medical program. As a result, these committees frequently suggest changes in policies and regulations. DM&S often enters into contracts with universities and private research institutions as well as consulting firms to perform independent studies of present and future veterans' needs on a scientific basis. When considered appropriate these studies include direct consumer contact of a marketing survey nature to determine their desires and preferences. These have been helpful in planning medical care facilities.

2. *Evaluation.* Within DM&S, there is an extensive program designed to assure that the quality of health care is maintained at a high level. This program is known as Health Services Review Organization (HSRO) and consists of two parts. The first is a systematic internal review requirement which is applied to all health care facilities. This is an ongoing review process, carefully structured to cover all significant elements of health care and to identify opportunities for improvement. Consumer involvement is included

through the patient satisfaction questionnaire. The second part of the HSRO Program involves systematic external reviews. These are external in the sense that they are conducted by teams made up of members that are not associated with the health care facility under review. These teams evaluate the quality of care and service being provided. The procedures they use include interviews with patients and veterans' organization representatives. The reaction of consumers is evaluated carefully by the review teams, and significant findings are included in the report and are considered in making recommendations. Action to correct any identified deficiencies is controlled and monitored at the Central Office level and special follow-up reviews are made as necessary. For example, if patient reaction were critical of the food service at a particular hospital, representatives of the Central Office Dietetic Service would survey that function at the hospital with the objective of eliminating the cause of such complaints.

Another form of internal evaluation regularly employed by DM&S utilizes the ad hoc committee or task force technique to review existing policies, proposals, and plans pertaining to systemwide programs. Usually, these groups are made up of officials from DM&S and other VA staff offices who have special qualifications in the subject area. Committees of hospital directors frequently have been utilized for this purpose. It is customary for such groups to solicit the views and recommendations of consumers of health services and these normally are included in the reports and considered in the recommendations made to the Chief Medical Director. In addition to those reviews controlled and carried out within DM&S, the medical care programs are subject to evaluation by other elements of the VA and also outside sources. Internal audits of programs and operations relating to medical care normally involve surveys of medical installations or studies of major medical programs. Management engineering studies relating to medical care usually encompass evaluation of the nonprofessional aspects of the health care delivery system with the objective of recommending administrative improvements. Review of health care facilities is made also by accreditation surveys of national organizations for the purpose of determining whether or not a hospital, or a portion thereof, meets national standards for accreditation. The General Accounting Office, representing the legislative branch of government, reviews medical care programs to determine their effectiveness in relation to the intent of the authorizing legislation. All of these audits, studies, surveys, and reviews involve contact with individual consumers or consumer groups as may be appropriate. These activities are well-publicized and consumers have an opportunity to make their views known to the groups conducting the evaluation. In addition, evaluations of medical care programs and facilities are conducted by groups directly representing the consumer. As indicated earlier, major veterans' organizations routinely conduct surveys of VA hospitals with the full cooperation of the VA. They make formal reports including recommendations to local management officials and to the VA at the national level. The VA makes a formal response to these reports after full consideration is given to the findings and recommendations.

3. *Communication.* The main channel for communication with the consumer is via the veterans' organizations. Each veterans' organization has a newsletter which is distributed to keep its membership informed about matters of concern to them and, therefore, of concern to the VA. Information from the grass-roots levels is transmited to state and national headquarters through conventions and other meetings of the various veterans o'rganizations. The VA Central Office and field facilities maintain close liaison with these groups by attending the conferences and conventions. Information received at these conferences and at other formal and informal meetings are funneled back through the VA system to the heads of the appropriate services and to the Administrator. Feedback of consumer-initiated suggestions, criticisms, or complaints are handled through similar information channels when appropriate or by direct contact with the consumer.

In addition, there are scheduled monthly meetings between hospital staff and veterans' representatives. Other meetings, in the field or at Central Office, are arranged as needed. All services are involved to some extent, but Voluntary Service and Medical Administration Service are particularly active in this function, and in communicating to consumers major issues and decisions that affect them.

In VA hospitals and other medical facilities, agency-prescribed policies and procedures are followed in processing and controlling complaints received by mail. Such mail is routed immediately to the field station head who is required to maintain control to assure that prompt and appropriate action is taken. Allegations of a very serious nature are referred to Central Office where they are processed in accordance with Central Office operating instructions. Written guidelines are used as an aid in analyzing complaints and in taking corrective action. VA directives require that necessary action be initiated as soon as possible. In addition to expeditious and considerate response to all complaints received in written form, it is policy and practice that VA medical facility directors and key staff officials be available for personal discussions with complainants. Complaints assist program officials in identifying areas where improvements can be made. In conjunction with other information, this has been instrumental in effecting changes to policies, procedures, regulations, and proposed legislation.

A large amount of information disseminated by the VA is directly or indirectly consumer oriented. Consumer education is accomplished through a variety of mass media mechanisms, through veterans' organizations, and via person-to-person contacts in hospitals and clinics. There are Veterans Benefits Counselors in every hospital who assist and talk with veterans. Educational and informative pamphlets are distributed on the initiative of the VA or in response to a request from the consumer. In addition to the relatively formal methods described above, Medical Administration Specialists have daily contact with veterans in admission offices or when the veteran makes an outpatient visit. Throughout the course of a veteran's medical care, hospital staff and volunteers have formal and informal contacts relaying information or educating the veteran in reference to the services or treatment he/she is receiving.

B. DEPARTMENT OF VETERANS BENEFITS

The Department of Veterans Benefits (DVB) administers an integrated program of benefits and services established by law for veterans, service personnel, and their dependents or beneficiaries. Administration is decentralized to a network of field stations with at least one office located in each state. Benefits and services are grouped in four program categories: Compensation and Pension, Education and Rehabilitation, Loan Guaranty, and Insurance. Separate Central Office Services formulate policy and provide program management staff support.

1. *Compensation and Pension Service*

Compensation and Pension (C&P) Service adjudicates claims and makes awards for disability and death, compensation and pension, taking into account related income, dependency, appealed claims, independent reviews, and correspondence action.

a. *Policy Advisory and Program Planning.* Substantive rulemaking in C&P Service involves changes in the Schedule for Rating Disabilities and in the general regulations. The rating schedule is updated periodically to conform to advances in medical sciences, modern surgical practices, and new drugs; also, to reflect changes in legislation, rating practices, and procedures. Changes in general regulations, other than those implementing legislation, may be initiated by recommendations from veterans' organizations, members of Congress, and other individuals when study of the recommendations indicates they are valid and meritorious. Some changes result from suggestions submitted by field station employees who are involved with and are responsible for the adjudication of individual claims. Other changes come about when a Central Office review of an individual case indicates the existing regulation may result in inequities. After approval by the Administrator, the proposed regulatory changes are published in the FEDERAL REGISTER and public comment is invited.

b. *Evaluation.* Two major sources of consumer input help to evaluate the C&P program: Contact with individual veterans and consultation with veterans' organizations. They provide critical analyses of the programs under C&P jurisdiction. Veterans' organizations are consulted concerning promulgation of proposed rules; their recommendations, as well as those of claimants, are followed where possible.

To insure the protection of the consumer and the continuing evaluation of C&P programs, ongoing reviews are undertaken. These include statistical quality control, regular station audits, and administrative review of specific cases.

c. *Communication.* Information for consumers regarding C&P benefits is disseminated through pamphlets explaining VA programs and through the use of the media to call to the attention of the veteran population recent changes to the law, regulations, or procedures.

Complaint mail from consumers and Congress is reviewed at the highest levels of authority and assists the VA in helping Congress to keep abreast of and be responsive to the needs of veterans and their dependents. Consumers who are dissatisfied with the determination regarding a claim for benefits have the right to be heard. This gives the claimants an opportunity to have their views considered in the decision-making process directly affecting their own well-being. They also are granted appellate rights to intermediate reviews and a hearing before the Board of Veterans Appeals.

2. Education and Rehabilitation Service

The Education and Rehabilitation (E&R) Service determines entitlement, provides counseling, and makes awards for educational benefits including related dependency and training changes. It also aids, guides, and prescribes vocational rehabilitation for service-disabled veterans including counseling and supervision of trainees.

a. *Policy Advisory and Program Planning.* E&R Service receives consumer newsletters from veterans' organizations, branches of the military, and other groups concerned with veterans' training. Recommendations from these sources and the Vietnam Veteran Civic Councils are used in planning new programs, developing guidelines for area field stations, and reviewing the E&R Program. The Service uses suggestions from the President's Committee on the Employment of the Handicapped and the Rehabilitation Services Administration's Veterans' Rehabilitation Coordination Committee. For example, an expression of consumer dissatisfaction with the termination date for vocational rehabilitation benefits for certain seriously disabled veterans was a factor in the proposal of legislation to provide an extension of these benefits.

b. *Evaluation.* The Federal Interagency Committee on Education represents thirty agencies and departments administering educational support programs. The Subcommittee on Educational Consumer Protection reviews the efforts of Federal agencies in the emerging field of educational consumer protection and promotes cooperation with non-Federal organizations. E&R Service has participated in major recommendations concerning a federally coordinated educational consumer complaint system and full disclosure of consumer rights and responsibilities.

The Administrator's Education and Rehabilitation Advisory Committee assists in the evaluation of existing programs and service, recommends needed new projects, and participates in long-range planning and development. Members are persons eminent in the fields of education, labor and management, and representatives of the institutions furnishing vocational rehabilitation or education. Veterans of each era and representatives of the Department of Health, Education and Welfare, and the Department of Labor also serve on the Board. The Committee's recommendations may involve regulatory and administrative changes as well as legislative proposals. The purpose of the Central Office Education and Training Review Panel is to protect the consumer from fraudulent practices and waste of funds. The Panel holds public hearings which offer opportunities for testimony by consumers regarding matters previously considered by the field station Committee on Educational Allowances.

The Compliance Survey Program was designed to assure the VA that veterans or other eligible persons enrolled in education or training receive the best education and training available. It is an effective program evaluation tool. Schools and beneficiaries are given opportunities to offer suggestions for improving service to consumers during liaison visits and compliance surveys. Feedback is obtained from beneficiaries, station personnel, and training establishments; suggestions that have merit may alter policy affecting the consumer.

E&R Service reviews, in compliance with the law, approval notices of state approving agencies concerning home study courses. If defects in the school's enrollment contracts, procedures, and advertising are discovered, they are brought to the attention of the appropriate state approving agency. When accreditation is involved, E&R Service notifies the National Home Study Council. The VA has entered into an agreement with the Federal Trade Commission to utilize its resources to investigate an institution's advertising, sales, or enrollment practices.

The quality control program provides information as to the quality level of operations and enables the VA to identify problems. Effective quality control includes the quality review itself, analysis of the findings, and determination of the action required to eliminate the causes of errors.

c. *Communication.* The management of E&R Service participates in many consumer-oriented meetings to establish rapport with consumers and technical groups, to keep abreast of current trends, and to solicit suggestions. They also attend meetings concerning counseling and training of the disabled. Regional meetings with VA personnel to introduce revised or new techniques in data processing are an ongoing program. This allows experts to elucidate fully a particular phase of computer processing and improve service to consumers. Meetings with state approving agencies are held each year. Suggestions for legislation, program improvements, changes in regulations and directives, and long-range planning are welcomed. Planning for the forthcoming fiscal year's state reimbursement contracts is discussed. A critique and evaluation of existing programs are part of the agenda of the working committees. This is one way of obtaining consumer input, disseminating information, and testing consumer reaction to proposed changes. Also, the expertise of educational authorities is especially helpful.

Prior to their effective date, proposed regulations are published in the FEDERAL REGISTER for public review and comment. The VA maintains mailing lists to insure proper distribution of approved amendments to regulations, changes in the Agency's procedures, and general information. They are distributed to state approving agencies, schools, and interested parties. Additions to the list may be made by individuals seeking to keep informed of current programs. Periodically, the VA publishes a Veterans Education Newsletter which is sent to approximately 25,000 institutions, organizations, agencies, and individuals concerned with veterans' educational affairs.

Consumer correspondence is evaluated carefully to detect developing patterns so future problems in these areas can be avoided. Central Office receives correspondence from consumers with comments concerning proposed regulations. Recently, communications from individuals and state approving agencies concerning standards of satisfactory progress in degree-granting institutions have resulted in amendments to regulations to insure student progress and the elimination of abuses.

E&R Service considers the complaints it has received when making submissions to Congress for new legislation. All complaints are acted upon immediately, with particular attention paid to issuing duplicate checks when money has not been received. When a beneficiary has not received adequate assistance from a Regional Office or has been given wrong information, every effort is made to correct the condition and to identify the reasons for the release of inaccurate information so this will not be repeated. Consumers who disagree with a decision regarding a claim for benefits have the right to appeal a determination to the Board of Veterans Appeals. When benefits have been withheld due to administrative error or when anyone has suffered a loss by relying on an erroneous VA determination of eligibility, the case is considered for equitable relief.

3. Loan Guaranty Service

The Loan Guaranty Program makes possible the guaranty of low- or no-downpayment loans for veterans. The Service determines eligibility; establishes reasonable value of properties; issues guaranty or insurance for home, mobile home, and refinancing loans; services loans and settles claims by holders of outstanding GI loans; and acquires, manages, and sells a portfolio of VA-owned loans and properties.

a. *Policy Advisory and Program Planning.* The Loan Guaranty Program traditionally has utilized the indirect consumer advocacy of housing industry groups as aids in policy formulation. National organizations such as the Mortgage Bankers Association, National Association of Home Builders, Manufactured Housing Institute, and the National Association of Real Estate Brokers assist in policy-making through their reviews of proposed policy statements of major significance and ad hoc consultations and committee memberships. Such input provides for consideration of the legal, technical, financial, and sales practices prevalent in the housing industry which are important to the program's operation and mission.

Much reliance is placed on the recommendations of Regional Office personnel as to veterans' needs and concerns since direct veteran-consumer input is limited by the infrequent nature of homebuying. Equally valuable participation in the policy and program planning phase is gained from Central Office review of precedent, hardship, and complaint cases; the reports of twenty-two counseling centers which advise minority homebuyers; Loan Guaranty Officers' conferences; and quality control visits to Regional Offices. Major changes or new policies are published in the FEDERAL REGISTER and public responses are evaluated carefully in finalizing new policies or procedures.

b. *Evaluation.* Ongoing evaluation functions are operated through a statistical quality control system and a systematic analysis program. Regional Offices randomly select loan cases for detailed review as to timeliness, accuracy, and adequacy of actions taken, and for conformity with VA policies and procedures. The results of each review and the associated case are forwarded to Central Office on a periodic basis for validation of the findings. The system thus alerts Regional Offices immediately to any areas needing attention on a technical basis and serves to inform Central Office of particular recurring problems at local facilities. The system also acts as an indicator for possible policy or procedural changes or other corrective actions when Central Office reviews reveal trends through the identification of similar problems at a number of Regional Offices. Such trends often have pointed up the need for clarification of manual instructions or a change in the requirements applicable to caseload processing.

The systematic analysis of Loan Guaranty operations at Regional Offices provides an ongoing review of all program areas for those aspects of management which cannot be evaluated through single-case reviews. Such subjects as staff utilization, review of complaints, the balance of productivity between functional activities, and comparisons of workload to the fiscal plan are covered in this analysis. Also included are staffing and training plans and an overall comparison of accomplishments in relation to program objectives at the local level.

c. *Communication.* Communication with veterans falls into four major categories: education, such as distributing general program and homebuying information; complaints against builders or other program participants; assistance to veterans who are having trouble meeting mortgage payments; and action in connection with the subsequent sale of the veteran's home. In most cases, the lending institution making the loan will have all the necessary contacts with the veteran from loan application through closing. Therefore, once they obtain home loans, most veterans have no further need to contact Loan Guaranty personnel unless they have complaints, fail to meet mortgage payments, or elect to sell the property.

The VA furnishes veterans with preliminary guides useful in the homebuying process. Pamphlets, such as "Questions and Answers on Guaranteed and Direct Loans to Veterans," "To the Homebuying Veteran," and "Questions and Answers on Mobile Home Loans for Veterans," provide information on eligibility for loans, typical financing requirements, and tips on selecting a home. These pamphlets also are made available routinely to military bases, libraries, schools, and community information centers.

Construction complaints constitute the major category of complaint correspondence. New homes inspected by the VA or FHA during construction are subject to a one-year warranty which the seller must furnish to the veteran. Normally, builders readily rectify defects when contacted by veteran purchasers. Should builders fail to remedy defects for which they are responsible, Regional Offices will assist veterans in securing correction. A pamphlet sent to the veteran after loan closing includes instructions on how to proceed with complaints, and internal operating instructions provide for control of complaint mail with inspections at Government expense and appropriate follow-up action within specified time limits. Continued failure on the part of builders to correct deficiencies can result in sanctions such as refusal to appraise other housing which the builder has under construction or ready for sale. Builders may be suspended from further participation if they repeatedly fail to make necessary corrections. Veterans also report problems with lenders and brokers. Such correspondence normally is given prompt attention and repeated actions determined prejudicial to veterans can result in the suspension of the offending party from participation in the program.

When lenders notify the VA that veterans have defaulted on loans, the local Regional Office contacts the veterans, reviews their financial status, and provides counseling to assist them in making arrangements with the lenders to cure the delinquency. It is the VA's policy to seek forbearance for veterans in all worthy cases, when it is probable that they can bring the payments current within a reasonable period. The Agency and veterans have benefited significantly in this respect through the cooperation with lenders which Regional Offices have fostered.

Contacts with veterans also occur at the time they seek to obtain a release of liability in connection with a sale of their home, for restoration of entitlement when their loans have been paid in full and the property is sold, or when they seek restoration of entitlement based on the proposed sale of their homes to veterans who will substitute entitlement for that of the veteran-seller.

4. Insurance Service

Life insurance protection for military personnel and veterans is provided under five separate programs administered by the VA and three programs which are supervised by the VA through a contractual relationship with private companies. Insurance Service maintains accounts and authorizes changes to existing GI insurance policies, determines acceptability of applications for new insurance, adjudicates disability and death claims, and makes awards for benefits or policy proceeds.

a. *Policy Advisory and Program Planning.* In order to meet the needs of the veteran population, Insurance Service is receptive to and seeks out their viewpoint. Veterans' organizations are consulted regarding changes in regulations and procedures. Generally, changes to the Insurance Program come about as responses to consumer needs. An example is the amendment of Servicemen's Group Life Insurance which extended coverage to certain Reservists, increased the amount of coverage, and established a new program, Veterans' Group Life Insurance.

b. *Evaluation.* The primary consideration of the Insurance Program is to serve veterans in a timely fashion while maintaining strict quality control. The quality control program makes random checks daily to assure that the processing of veterans' inquiries was correct and was with prescribed time limits. Systematic analyses, as scheduled by management, provide critical overall review of insurance operations. They furnish the means for determining the accuracy of the operations, the quality of service rendered, and whether present operating techniques are practical and economical.

To make certain the insureds are receiving the highest quality service, periodic visits are made to the Office of Servicemen's Group Life Insurance. Procedures are checked and whenever discrepancies are detected, they are discussed with responsible officials. Recommendations for improvements in operations are made.

c. *Communication.* Matters of concern to veterans are relayed to the VA at biennial training seminars which answer questions raised by veterans' representatives and inform them of insurance activities. The VA distributes pamphlets about government life insurance to key groups throughout the country, including VA installations, veterans' organizations, and the Armed Forces.

The VA takes a positive attitude in explaining kinds of insurance to veterans, always allowing them to determine which type is best for their personal needs. There are operating procedures to safeguard the interests of veterans. For example, applications for cash surrender of policies are not processed until it is evident that policyholders are aware of the pertinent facts regarding the change. A special effort is made to inform all insureds whenever new legislation involving insurance is passed. This is accomplished through the news media, television, radio, special meetings, etc.

The Insurance Centers at Philadelphia and St. Paul have established procedures to control complaint mail to insure a prompt reply. This mail is analyzed regularly to determine if changes in procedures or other corrective action is warranted. Since an individual has the right to have a case heard by the Board of Veterans Appeals, there are formal procedures for handling appeals. Reports of contact are prepared for all telephone and personal inquiries from insureds or their representatives about government life insurance. These are forwarded to the proper operating element and are processed on a priority basis.

C. NATIONAL CEMETERY SYSTEM

The National Cemetery System (NCS) is responsible for providing a gravesite for the burial of veterans, active duty military personnel, and their eligible dependents, and for furnishing a headstone or marker for the grave. Headstones and markers also are provided for the unmarked graves of veterans buried in private cemeteries.

1. *Policy Advisory and Program Planning.* In 1973, Congress transferred the National Cemetery System from the Department of the Army to the VA. Two of the most important endeavors at present are the establishment of new cemeteries and the development and expansion of existing ones.

Consumer expressions received through Congressional interests, veterans' groups, and the printed media are reviewed on a regular basis. Public Law 93-43 directed the establishment of an advisory committee to represent the desires of the consumer and to make recommendations to the Administrator. There is a Congressional Inquiry Section within the Planning and Evaluation Staff to receive and give full consideration to all inquiries about cemetery matters from Congress and the White House. Professional organizations such as the National Funeral Directors' Association are encouraged to report on consumer problems. Consumer input is received from local architectural engineers and veterans' groups. Cemetery master plans are prepared for review by interested local and Congressional officials. Consumer views on the headstone/marker program are received through county and state service officers, cemetery officials, and funeral directors who serve veterans and their families at the time of burial.

2. *Evaluation.* Within NCS, field supervising offices give direct supervision and guidance to the national cemeteries. They make periodic on-site evaluations to judge the service provided and to solicit expressions of satisfaction from the families of the deceased. Consumer demands that cannot be resolved locally are transmitted to Central Office for consideration.

New concepts are submitted to Congressional Committees, veterans' organizations, funeral directors and cemetery associations, and national cemetery superintendents' conferences for evaluation. The Advisory Committee on Cemeteries and Memorials is a relatively new mechanism for the evaluation of cemetery policies and planning. It is composed of a cross-section of veterans representing many veterans' groups.

3. *Communication.* The VA Regional Offices work with funeral directors, furnishing them forms, burial flags, and necessary information to assist the next of kin at the time of the veteran's death. The best source of information for consumers is the local funeral director who comes to their assistance at the time of a death. The Armed Forces and Retired Associations and veterans' organizations make known to their members the kinds of burial benefits that are available. NCS provides information for publications the associations issue. National cemetery superintendents appear before local groups to discuss the cemeteries and the benefits available.

A number of helpful aids have been developed to facilitate the dissemination of pertinent information. These include a list of national cemeteries with addresses and telephone numbers, and a leaflet, "Interments in National Cemeteries," which describes eligibility for burial in a national cemetery and the procedure to follow.

Complaints received at VA national cemeteries are resolved locally whenever possible. Significant complaint trends are brought to the attention of key officials at weekly staff meetings. A complaint reporting system has been instituted whereby national cemetery superintendents are required to report all complaints to the Director National Cemetery Service.

D. SUPPORTING STAFFS

1. *Information Service.* The major function of Information Service is consumer education regarding available benefits. Through the public service cooperation of the media, the office reminds the public of continuing VA benefits, new benefit laws, important deadlines, and changes in policies and regulations. Veterans and their dependents are urged to contact the VA for assistance.

Approximately 6,000 local and national news releases are distributed each year to 11,000 daily and weekly newspapers, wire services, and veteran and military publication; radio and TV material is released weekly to the nation's electronic media. In addition, two weekly recorded radio programs are distributed to about 3,400 radio stations and to the Armed Forces Radio Network; question-and-answer features, benefit filler facts, and cartoon features are sent to the print media; magazine articles and information are prepared; and the office publishes a comprehensive booklet, "Federal Benefits for Veterans and Dependents," which is disseminated to the media and the public through all VA facilities, and is sold in volume by the Government Printing Office.

The Service also publishes a biweekly *Public Opinion Digest* for distribution to agency officials and field stations. This condensation of critical and favorable comment on VA programs and activities serves to alert all stations to new trends, as well as potential problem areas that might impede service to consumers.

2. *General Counsel.* The General Counsel serves as the chief officer of the VA in all matters of law and legislation. He directs and is responsible for all litigation involving the VA, interpretative advice on matters of law, and preparation of the VA legislative program based upon the recommendations of the operating units. The General Counsel, including the field and Central Office, has limited direct contact with the public. He and his staff answer letters from the general public which deal with legislative or legal problems. Correspondence which indicates a possible need for regulatory changes or new legislation is segregated and reviewed with the program officials who are responsible for recommending changes. There also is contact with the public in conjunction with claims filed under the Federal Tort Claims Act and in matters concerning the Medical Care Recovery Act and the Loan Guaranty Program.

3. *Board of Veterans Appeals.* The Board of Veterans Appeals is the final authority whenever the veteran is dissatisfied with a previous determination regarding a claim for benefits. The policy of the BVA is to act in favor of the veteran when it has the power to do so. By regulation all reasonable doubt is resolved in the appellant's behalf. A veteran can make a personal appearance and be represented by an attorney or give one of the veterans' organizations power of attorney to represent him/her at no charge.

As the semi-autonomous appellate body of the VA, the Board does not formulate or routinely comment on agency regulations or policy pertaining to substantive entitlement to benefits. However, when areas of regulatory ambiguity are identified in connection with its day-to-day activities, the Board notifies appropriate elements of the agency and makes suggestions for changes in policy. The Board of Veterans Appeals is in touch with Central Office and the field stations in its efforts to resolve problems which have been identified or complaints which have been presented by those outside the agency.

E. INDEPENDENT ADVISORS

1. *Veterans' Organizations.* Before the consumer advocacy movement became popular, veterans formed numerous effective organizations to represent their interests. VA representatives attend conventions and conferences held by veterans' organizations at the local, state, and national levels to discuss VA matters. These organizations have been and are well-informed on VA benefits. Since membership is not requisite for receiving a veterans' organization's assistance, the number of veterans represented by these groups exceeds their actual membership rolls.

Interaction with veterans' organizations takes many forms. Prior notice of major changes is sent to the largest groups and their comments are reviewed, along with all those who respond to FEDERAL REGISTER publication of impending revisions to VA policies. Annual seminars, usually coinciding with their national conventions, provide a forum for discussion between VA representatives and veteran leaders. There are frequent meetings between veterans' groups and top staff in Central Office and at hospitals and Regional Offices. The VA provides the veterans' organizations with a supply of its informational publications and claims forms to facilitate their work. Some of the groups make on-site evaluations of hospitals and Regional Offices, submitting their findings to the Administrator. Occasionally, they draft new legislative proposals and attempt to have them introduced in Congress when this is the most effective way to achieve a desired end.

These organizations communicate with their constituents through a network of national headquarters, departments at the state level, districts, and nearly 30,000 local posts or chapters. The VA conducts training courses for local service officers of veterans' organizations to familiarize new appointees with veterans' benefits and the procedures for obtaining them. The veterans' organizations and the VA have many

shared goals; the maintenance of open relations with all of them benefits the veteran consumer.

2. *Advisory Committees.* Advisory Committees are an important resource tool of the VA. Twenty-eight committees provide professional expertise in evaluating both new and existing programs.

The charters of all the Advisory Committees have drawn on consumer and professional involvement, in order to provide balanced advice to the Administrator. Professional members of the committees are eminent in the field of education, labor, medicine, public health, and other disciplines affected by VA activities. Veterans are highly visible board members with considerable impact on regulations and policy. In fact, all veterans serving on the Chief Medical Director's Advisory Committee on Spinal Cord Injuries have personal experience with the unique needs of this segment of the veteran population.

When an institution has been disapproved for further education benefits by a Regional Office, it can appeal to the Central Office Eductaion and Training Review Panel. The Panel protects consumers from fraudulent practices and the waste of funds. The VA wants to insure that any benefits derived through third parties are of high quality and are in the best interests of the veteran or beneficiary.

IV. Planned Actions to Improve Consumer Participation

PLANNED ACTION 1

Prior to publication in the Federal Register, advance notice of new programs, policies, changes in regulations, and other VA activities is sent to the major veterans' organizations. This mailing list will be expanded to included all nationally recognized veterans' organizations and other select veterans' groups representating special interests.

Schedule of Events. This action was initiated in conjunction with the release of the Proposed Consumer Representation Plan in November 1975. To date, the list of veterans' organizations has been expanded to thirty-three, an increase of twenty-seven. This more extensive list is being used for a one-year trial period, after which it will be modified according to the response and interest shown by these organizations.

PLANNED ACTION 2

The VA has initiated a new system of in-depth program evaluations which will be considerably more far-reaching than any previous appraisal efforts. Program evaluations will assess on a continuing basis the impact of all programs administered by the VA in order to determine their effectiveness in achieving stated goals, and evaluate their achievements in relation to cost, impact on related programs, and structure for delivery of services. Input from veterans will be a major consideration in these evaluations. The information developed will be made available to the public and provided on a regular basis to the appropriate Congressional Committees.

Schedule of Events. In September 1975, a test of program evaluation methodology began in two programs. Completion of the pilot is scheduled for September 1976, at which time ten to fifteen additional programs will be selected for evaluation under the refined methodology resulting from the initial test. September 1977 is the target date for the addition of fifteen to twenty more programs to the system; the remainder will be undertaken by September 1978.

PLANNED ACTION 3

The VA has prided itself on maintaining good relations with the veterans' organizations. Following publication of the proposed Plan, five working meetings were held with the veterans' groups. Because of this success, the VA plans to continue holding such meetings, while expanding the list of invitees to include all organizations on the new mailing list. The agenda will be revised to promote greater participation by the veterans' organizations.

Schedule of Events. A series of meetings with veterans' organizations has been initiated and will be completed by mid-December, following the election of new commanders of the respective organizations.

PLANNED ACTION 4

Vietnam Veterans Civic Councils (VVCC) have been established at the Regional Offices in every state. Council membership is not limited to Vietnam veterans, but includes other veterans' groups, local community members, or other interested parties. Minutes of the meetings are sent to the Chief Benefits Director, Deputy Administrator, and department or staff offices for appropriate action, when the subject matter is pertinent. Since these have been effective at the local level, added emphasis will be given to the councils by including 1) a representative (designated by the Chief Medical Director) of a VA hospital near the Regional Office, and 2) a representative of the National Cemetery System where appropriate.

Schedule of Events. Policies will be amended and personnel will be designated to attend the scheduled meetings of the VVCC.

PLANNED ACTION 5

The Health Service Review Organization Program will be improved as hospitals and other health care facilities become increasingly proficient in systematic internal review techniques, including the use and analysis of patient satisfaction data. An increase in the number of systematic external reviews conducted each year also is planned.

Schedule of Events. Implementation of the Health Service Review Organization Program is taking place on a continuing basis in order to improve constantly the delivery of health care.

PLANNED ACTION 6

Loan Guaranty Service will establish an Issues Review Group to consist of selected representatives of major housing industry organizations and veterans' groups, who routinely will receive copies of all published materials, as well as preliminary copies of policy statements for review and comment prior to publication. Members of the groups may be requested from time-to-time to meet on an ad hoc voluntary basis.

Schedule of Events. Implementation of this action will occur at the same time as publication of the final Plan.

PLANNED ACTION 7

Loan Guaranty Service will issue instructions to Regional Offices to stimulate wider release of information on VA home loans to veteran consumer groups at the local level.

Schedule of Events. Instructions are being prepared and will be released before the end of the calendar year.

PLANNED ACTION 8

Loan Guaranty Service is developing a list of housing industry officials and veterans' organizations who receive preliminary policy statements of major import. Comments are considered in finalizing such policies.

Schedule of Events. The action was initiated in conjunction with the release of the proposed Plan.

PLANNED ACTION 9

A consumer guide will be prepared to promote a better understanding of GI term insurance for the approximately two million veterans holding this type of policy. This pamphlet will call attention to the steep premium increases at older ages and point out the advantages of converting to a permanent plan of insurance before the term premium becomes prohibitive.

Schedule of Events. Action has been initiated to prepare the pamphlet which was distributed July 1, 1976.

PLANNED ACTION 10

When major insurance legislation is enacted, special seminars will be conducted with representatives of veterans' organizations and Veterans Benefit Counselors to explain the legislation and its impact on veterans.

Schedule of Events. This policy is effective immediately; the special seminars will be held whenever Congressional action requires them.

PLANNED ACTION 11

The Associate Deputy Administrator has been designated Consumer Affairs Coordinator with responsibility for full implementation of this Plan. The position will seek new initiatives and insure that consumer interests are considered in the formulation of future policies and procedures.

Schedule of Events. This action became effective on July 14, 1976.

V. Where To Go for Assistance

For information or assistance write, call, or visit a Veterans Benefits Counselor at your nearest VA Regional Office, VA office or VA Hospital listed on the following pages. Application for medical benefits may be made at any VA station with medical facilities.

If telephoning, many states have toll-free service to the VA from communities in the state. Consult your local directory or information assistance operator for the latest listing of these numbers. All other telephone numbers may be found in local telephone directories or obtained from the operator without charge.

GI life insurance is administered at the VA Center in St. Paul or Philadelphia. For any information concerning a policy, write directly to the VA Center administering it, giving the insured's policy number, if known. The insured's full name, date of birth, and service number should be given if the policy number is not known.

VA installations are listed below by state. Information on VA benefits may be obtained from the following installations:

Regional Offices (RO);
Other offices (O);
Centers (Regional Offices and Insurance) (C);
Hospitals (H);
Domiciliary (D);
Outpatient Clinic (independent) (OC);
Outpatient Clinic (physically separated from hospital) (OCH);
Outpatient Clinic Substation (OCS).

ALABAMA

Birmingham (H) 35233, 700 S. 19th St.
Mobile (OCS) 36617, 2451 Fillingim St.
Montgomery (H) 36109, 215 Perry Hill Rd.
Montgomery (RO) 36104, 474 S. Court St.
Tuscaloosa (H) 35401.
Tuskegee (H) 36083.

ALASKA

Juneau (RO) 99801, Federal Bldg., U.S. Post Office & Courthouse, P.O. Box 1288, 709 W. 9th St.
Anchorage (O) 99501, Rm. 214, Loussac-Sogn Bldg., 429 D St.

ARIZONA

Phoenix (H) 85012, 7th St. & Indian School Rd.
Phoenix (RO) 85012, 3225 N. Central Ave.
Prescott (H&D) 86313.
Tucson (H) 85723.

ARKANSAS

Fayetteville (H) 72701.
Little Rock (RO) 72201, Federal Bldg., 700 W. Capitol Ave.
Little Rock (H) 72206, 300 W. Roosevelt Rd.

CALIFORNIA

Fresno (H) 93703, 2615 E. Clinton Ave.
Livermore (H) 94550.
Long Beach (H) 90801, 5901 E. 7th St.
Los Angeles (RO) 90024, Federal Building, 11000 Wilshire Blvd., West Los Angeles.
Los Angeles (H&D) 90073, Sawtelle & Wilshire Blvd.
Los Angeles (OC) 90013, 425 S. Hill St.
Martinez (H) 94553, 150 Muir Rd.
Oakland (OCS) 94612, 1515 Clay St., Oakland, Phone: 893-0405.
Palo Alto (H) 94304, 3801 Miranda Ave.
San Diego (RO) 92108, 2022 Camino Del Rio North.
San Diego (H) 92161, 3350 LaJolla Village Dr.
San Diego (OCH) 92108, Palomar Building, 2022 Camino Del Rio North.
San Francisco (RO) 94105, 211 Main St.
San Francisco (H) 94121, 4150 Clement St.
Sepulveda (H) 91343.

COLORADO

Denver (RO) 80225, Building 20, Denver Federal Center.
Denver (H) 80220, 1055 Clermont St.
Fort Lyon (H) 81038.
Grand Junction (H) 81501.

CONNECTICUT

Hartford (RO) 06103, 450 Main St.
New London, Phone: 447-0377.
New Haven, Phone: 562-2113.
Newington (H) 06111, 555 Willard Ave.
West Haven (H) 06516, W. Spring St.

DELAWARE

Wilmington (RO&H) 19805, 1601 Kirkwood Highway.

DISTRICT OF COLUMBIA

Washington (RO) 20421, 941 N. Capitol St., N.E.
Washington (H) 20422, 50 Irving St., N.W.

FLORIDA

Bay Pines (H,D,&OCH) 33504.
Gainesville (H) 32602, Archer Rd.
Jacksonville (O&OCS) 32201, Post Office & Courthouse Bldg., 311 W. Monroe St.
Lake City (H) 32055.
Miami (H) 33125, 1201 N.W. 16th St.
Miami (O) 33130, Federal Building Rm. 100 51 S.W. 1st Ave.
Orlando (OCS) 32806, 83 W. Columbia St.
St. Petersburg (OCH) 33731, P.O. Box 13594.
St. Petersburg (RO) 33731, P.O. Box 1437. 144 1st Ave. S.
Tampa (H) 33612, 13000 N. 30th St.

GEORGIA

Atlanta (RO) 30308, 730 Peachtree, St. N.E.
Augusta (H) 30904.
Decatur (H) 30033, 1670 Clairmont Rd. N.E.
Dublin (H&D) 31021.

HAWAII

Honolulu (RO) 96801, P.O. Box 3198 (Air Mail), 680 Ala Moana Blvd.

IDAHO

Boise (RO) 83724, Federal Bldg. and U.S. Courthouse, 550 W. Fort St. Box 044.
Boise (H) 83702, 5th and Fort St.

ILLINOIS

Chicago (H) 60611, 333 E. Huron St. (Lakeside).
Chicago (H) 60680, (West Side) P.O. Box 8195, 820 S. Damen Ave.
Chicago (RO) 60605, 536 S. Clark St.
Danville (H) 61832.
Downey (H) 60064.
Marion (H) 62959.
Hines (H) 60141.

INDIANA

Evansville, Phone: 426-1403.
Fort Wayne (H) 46805, 1600 Randalia Dr.
Gary, Phone: 886-9184.
Indianapolis (RO) 46204, 575 N. Pennsylvania St.
Indianapolis (H) 46202, 1481 W. 10th St.
Marion (H) 46952.

IOWA

Des Moines (RO) 50309, 210 Walnut St.
Des Moines (H) 50310, 30th & Euclid Ave.
Iowa City (H) 52240.
Knoxville (H) 50138.

KANSAS

Leavenworth (H&D) 66048.
Topeka (H) 66622, 2200 Gage Blvd.
Wichita (RO&H) 67218, 5500 E. Kellogg.

KENTUCKY

Lexington (H) 40507.
Louisville (RO) 40202, 600 Federal Place.
Louisville (H) 40202, 800 Zorn Ave.

LOUISIANA

Alexandria (H) 71301.
New Orleans (RO) 70113, 701 Loyola Ave.
New Orleans (H) 70146, 1601 Perdido St.
Shreveport (H&O) 71130, 510 E. Stoner Ave.

MAINE

Togus (RO&H) 04330.
Portland (O) 04111, 76 Pearl St.

MARYLAND

Baltimore (RO&OCH) 21201, 31 Hopkins Plaza Federal Bldg.
Baltimore (H) 21218, 3900 Loch Raven Blvd.
Fort Howard (H) 21052.
Perry Point (H) 21902.

MASSACHUSETTS

Bedford (H) 01730, 200 Spring Rd.
Boston (H) 02130, 150 S. Huntington Ave.
Boston (RO) 02203, John Fitzgerald Kennedy Federal Bldg. Government Center.
Boston (OC) 02108, 17 Court St.
Brockton (H) 02401.
Lowell (OCS) 01852, Old Post Office Bldg.
New Bedford (OCS) 02740, 749 Purchase St.
Northampton (H) 01060.

Springfield (O&OCS) 01103, 1200 Main St.
West Roxbury (H) 02132, 1400 VFW Parkway.
Worcester (OCS) 01601, 595 Main St.

MICHIGAN

Allen Park (H) 48101.
Ann Arbor (H) 48105, 2215 Fuller Rd.
Battle Creek (H) 49016.
Detroit (RO) 48226, P.O. Box 1117A, Patrick V. McNamara Bldg., 477 W. Michigan Ave.
Grand Rapids (OCS) 49502, 260 Jefferson St. N.E.
Iron Mountain (H) 49801.
Saginaw (H) 48602, 1500 Weiss St.

MINNESOTA

Minneapolis (H) 55417, 54th St. & 48th Ave. South.
St. Cloud (H) 56301.
St. Paul (C) 55111.
St. Paul (C) 55111, Federal Bldg., Fort Snelling.
St. Paul (OCH) 55111, Fort Snelling.

MISSISSIPPI

Biloxi (H&D) 39531.
Jackson (RO&H) 39216, 1500 E. Woodrow Wilson Ave.

MISSOURI

Columbia (H) 65201, 800 Stadium Road.
Kansas City (O) 64106, 260 Federal Office Bldg., 601 E. 12th St.
Kansas City (H) 64128, 4801 Linwood Blvd.
Poplar Bluff (H) 63901.
St. Louis (RO) 63103, Rm. 4705, Federal Bldg., 1520 Market St.
St. Louis (H) 63125, 915 N. Grand Blvd.

MONTANA

Fort Harrison (RO&H) 59636.
Miles City (H) 59301.

NEBRASKA

Grand Island (H) 68801.
Lincoln (RO) 68508, 100 Centennial Mall North.
Lincoln (H) 68510, 600 S. 70th St.
Omaha (H) 68105, 4101 Woolworth Ave.

NEVADA

Henderson (OCS) 89015, 102 Lake Mead Dr.
Reno (H) 89502, 1000 Locust St.
Reno (RO) 89502, 1201 Terminal Way.

NEW HAMPSHIRE

Manchester (RO) 03103, 497 Silver St.
Manchester (H) 03104, 718 Smyth Rd.

NEW JERSEY

East Orange (H) 07019.
Lyons (H) 07939.
Newark (RO&OCH) 07102, 20 Washington Pl.
Trenton, Phone: 989–8116.

NEW MEXICO

Albuquerque (RO) 87101, 500 Gold Ave., S.W.
Albuquerque (H) 87108, 2100 Ridgecrest Dr., S.E.

NEW YORK

Albany (H) 12208.
Albany (O) 12201, Executive Park, North Stuyvesant Plaza.
Batavia (H) 14020.
Bath (H&D) 14810.
Bronx (H) 10468, 130 W. Kingsbridge Rd.
Brooklyn (H) 11209, 800 Poly Place.
Brooklyn (OC) 11205, 35 Ryerson St.
Buffalo (RO) 14202, Federal Bldg., 111 W. Huron St.
Buffalo (H) 14215, 3495 Bailey Ave.
Canandaigua (H) 14424.
Castle Point (H) 12511.
Montrose (H) 10548.
New York City (H) 10010, 1st Ave., at E. 24th St.
New York City (RO&OCH) 10001, 252 7th Ave. at 24th St.
Northport (H) 11768, Long Island.
Rochester (O&OCS) 14614, 100 State St.
Syracuse (O) 13202, Gateway Bldg., 809 S. Salina St.
Syracuse (H) 13210, Irving Ave. & University Pl.

NORTH CAROLINA

Asheville (H) 28805.
Durham (H) 27705, 508 Fulton St.
Fayetteville (H) 28301, 2300 Ramsey St.
Salisbury (H) 28144.
Winston-Salem (RO&OCH) 27102, 251 W. Main St.

NORTH DAKOTA

Fargo (RO&H) 58102, 21st Ave. & Elm St.

OHIO

Akron, Phone: 535–3227.
Brecksville (H) 44141, 10000 Brecksville Rd.
Chillicothe (H) 45601.
Cincinnati (H) 45220, 3200 Vine St.
Cincinnati (O) 45202, Rm. 1024, Federal Off. Bldg., 550 Main St.
Cleveland (H) 44106, 10701 E. Boulevard.
Cleveland (RO) 44199, Federal Office Bldg., 1240 E. 9th St.
Columbus (O&OCS) 43215, 360 S. Third St.
Columbus (OC) 43210, 456 Clinic Drive.
Dayton (H&D) 45428.
Toledo, Phone: 244–5887.

OKLAHOMA

Muskogee (H) 74401, Memorial Station, Honor Heights Dr.
Muskogee (RO) 74401, 125 S. Main St.
Oklahoma City (O) 73102, 200 N.W. 4th St.
Oklahoma City (H) 73104, 921 N.E. 13th St.
Tulsa, Phone: 583–5891.

OREGON

Portland (H) 97207, Sam Jackson Park.
Portland (RO) 97204, 1220 S.W. 3rd Avenue.
Portland (OCH) 97204, 426 S.W. Stark St.
Roseburg (H) 97470.
White City (D) 97501.

PENNSYLVANIA

Altoona (H) 16603.
Butler (H) 16001.
Coatesville (H) 19320.
Erie (H) 16501, 135 E. 38th St. Blvd.
Harrisburg (OCS) 17108, Federal Bldg., 228 Walnut St.
Lebanon (H) 17042.
Philadelphia (H) 19104, University & Woodlawn Aves.
Philadelphia (C) 19101, P.O. Box 8079, 5000 Wissahickon Ave.
Philadelphia (OCH) 19102, 1421 Cherry St.
Pittsburgh (RO&OCH) 15222, 1000 Liberty Ave.
Pittsburgh (H) 15240, University Drive C.
Pittsburgh (H) 15206, Highland Drive.
Wilkes-Barre (O) 18711, 19–27 N. Main St.
Wilkes-Barre (H) 18703, 1111 E. End Blvd.

PHILIPPINES

Manila (RO) 96528, 1131 Roxas Blvd., APO San Francisco (Air Mail).

PUERTO RICO

Ponce (OCS) 00731, Calle Isabel #60.
San Juan (RO&H) 00936, Barrio Monacillos, Rio Piedras GPO Box

RHODE ISLAND

Providence (RO) 02903, 321 So. Main St.
Providence (H) 02908, Davis Park.

SOUTH CAROLINA

Charleston (H) 29403, 109 Bee St.
Columbia (RO) 29201, 1801 Assembly St.
Columbia (H) 29201, Garners Ferry Rd.
Greenville (OCS) 29607, Piedmont East Bldg., 37 Villa Road.

SOUTH DAKOTA

Fort Meade (H) 57741.
Hot Springs (H&D) 57747.
Sioux Falls (RO&H) 300 North Dakota Ave.

TENNESSEE

Chattanooga (OCS) 37411, Bldg. 6200 East Gate Center.
Knoxville (OCS) 37920, Baptist Prof. Bldg., 200 Blount Ave.
Memphis (H) 38104, 1030 Jefferson Ave.
Mountain Home (H&D) 37684, Johnson City.
Murfreesboro (H) 37130.
Nashville (RO) 37203, 110 9th Ave., S.
Nashville (H) 37203, 1310 24th Ave., S.

TEXAS

Amarillo (H) 79106, 6010 Amarillo Blvd., W.
Big Spring (H) 79720.
Bonham (H&D) 75418.
Corpus Christi (OCS) 78404, 1502 S. Brownlee Blvd.

Dallas (O) 75202.
U.S. Courthouse and Federal Office Bldg., 1100 Commerce St.
Dallas (H) 75216, 4500 S. Lancaster Rd.
El Paso (OC) 79905, 4819 Alameda Ave.
Houston (RO) 77054, 2515 Murworth Drive.
Houston (H) 77211, 2002 Holcombe Blvd.
Kerrville (H) 78028.
Lubbock (O&OC) 79401, Federal Building, 1205 Texas Ave., Room 814.
Marlin (H) 76661.
McAllen (OCS) 78501, 1220 Jackson Ave.
San Antonio (H) 78284, 7400 Merton Minter Blvd.
San Antonio (O) 78285, 410 S. Main St.
San Antonio (OC) 78285, 307 Dwyer Ave.
Temple (H&D) 76501.
Waco (RO) 76710, 1400 N. Valley Mills Dr.
Waco (H) 76703, Memorial Drive.
Waco (OCH) 76710, 1400 N. Valley Mills Dr.

UTAH

Salt Lake City (RO) 84138, 125 S. State St.
Salt Lake City (H) 84113.

VERMONT

White River Junction (RO&H) 05001.

VIRGINIA

Hampton (H&D) 23667.
Richmond (H) 23249, 1201 Broad Rock Rd.
Roanoke (RO) 24011, 210 Franklin Rd. S.W.
Salem (H) 24153.

WASHINGTON

American Lake (H) 98493, Tacoma.
Seattle (RO) 98174, Federal Office Building, 915 2nd Ave.
Seattle (H) 98108, 4435 Beacon Ave., S.
Seattle (OCH) 98104, Smith Tower, 2nd & Yesler.
Spokane (H) 99208, N. 4815 Assembly St.
Vancouver (H) 98661.
Walla Walla (H) 99362, 77 Wainwright Dr.

WEST VIRGINIA

Beckley (H) 25801, 200 Veterans Ave.
Clarksburg (H) 26301.
Huntington (RO) 25701, 502 8th St.
Huntington (H) 25701, 1540 Spring Valley Dr.
Martinsburg (H&D) 25401.
Wheeling (OCS) 26003, 11th & Chapline Sts.

WISCONSIN

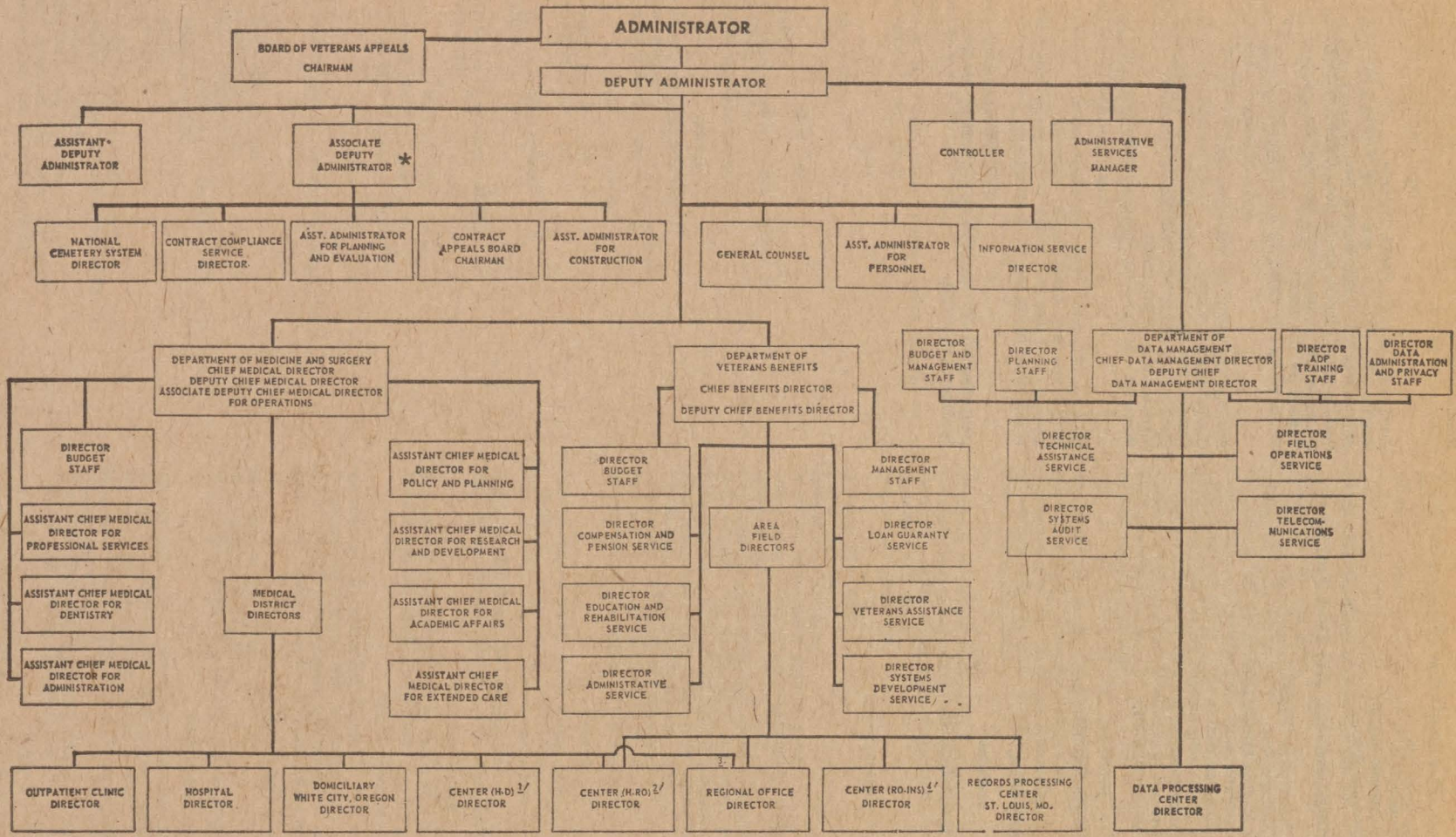
Madison (H) 53705, 2500 Overlook Terrace.
Milwaukee (RO) 53202, 342 N. Water St.
Tomah (H) 54660.
Wood (H&D 53193, 500 W. National Ave.

WYOMING

Cheyenne (RO&H) 82001, 2360 E. Pershing Blvd.
Sheridan (H) 82801.

APPENDIX

ORGANIZATION OF THE VETERANS ADMINISTRATION



2/ Combined Hospital and Domiciliary.
3/ Combined Hospital and Regional Office.
4/ Outpatient Clinic where authorized.
4/ Combined Regional Office and Insurance Center, Philadelphia office has staff responsibility for agency insurance programs.

* Primary Consumer Contact

DEPARTMENT OF AGRICULTURE

Consumer Representation Plan

PRIMARY CONSUMER CONTACT

Special Assistant to the Secretary of Agriculture for Consumer Affairs, U.S. Department of Agriculture, Room 225–W, Washington, D.C. 20250 (202) 447–3165

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I. STATEMENT OF PURPOSE

The United States Department of Agriculture is the Federal Government's principal policymaking arm with respect to the nation's production, distribution, and consumption of agricultural commodities, foodstuffs, and forest resources, and related activities falling within the purview of USDA. The purpose of the Depratment's adoption of this Consumer Representation Plan is to inform and involve consumers in the actions of the Department which may have a significant impact on them. To achieve this purpose, existing decision-making processes and informational and educational mechanisms within the Department will be improved and expanded in order to afford greater opportunity for consumer input in decision-making and to inform consumers generally of important aspects of Departmental actions. For purposes of this Plan, consumers are those individuals whose economic or social interests are primarily related to the use of agricultural commodities or services for personal or household purposes.

II. EXECUTIVE SUMMARY

USDA'S Consumer Representation Plan—

Affords better consumer input and information. This Plan affords greater opportunity for the expression and consideration of consumer viewpoints in connection with major Departmental decision-making.

Strengthens the Role of The Special Assistant for Consumer Affairs. The Plan provides a charter for the role of the Department's Special Assistant for Consumer Affairs in coordination of the Department's efforts to consider consumer viewpoints on major issues and to keep consumers and consumer groups informed with respect to major Departmental actions.

Provides for consumer coordinators in each major department agency. The Plan provides for the appointment of a consumer coordinator in each major Department agency whowill advise the Agency Administrator on consumer matters and reflect consumer viewpoints on significant agency issues.

Establishes two committees for consideration of consumer matters. This Plan provides for the establishment of (1) a Consumer Responsiveness Committee comprised of high-ranking Department officials which will advise the Secretary on actions and activities of the Department as they relate to consumer interest and participation; and (2) a National Consumer Advisory Committee which will meet regularly and advise the Secretary and Department officials regarding significant policy matters of interest to consumers as well as the overall effectiveness of the Department's consumer effort.

Includes procedures for assuring opportunity for consumer input and information. The Plan includes procedures to be followed by Department agencies when contemplating major changes in policy or any action likely to have a significant impact on consumers.

Insures prompt responses to consumer complaints. The Plan provides that consumer complaints addressed to the Department on any issue will be seriously considered and promptly answered.

Provides for coordination by the Assistant Secretary for Marketing and Consumer Services. The Plan provides that the Assistant Secretary for Marketing and Consumer Services is responsible for program coordination, and that the Special Assistant for Consumer Affairs will assist Department agencies in implementation of the Plan.

III. PRIMARY ORGANIZATIONS INVOLVED

A. *Special Assistant to the Secretary for Consumer Affairs*—coordinates Department actions on problems and issues of importance to consumers.

B. *Agricultural Marketing Service*—administers a broad program of standardization, grading, inspection, market news and regulatory functions to assist in the orderly marketing and distribution of food and farm products.

C. *Agricultural Research Service*—provides the necessary knowledge and technology so that farmers can produce efficiently, conserve the environment, and meet the food and fiber needs of the American people. The agency conducts the Department's basic research in human nutrition and national dietary levels.

D. *Agricultural Stabilization and Conservation Service*—administers specified commodity and related land use programs designed for voluntary production adjustment, resource protection, and price, market, and farm income stabilization.

E. *Animal and Plant Health Inspection Service*—conducts regulatory control programs to protect the wholesomeness of meat and poultry products for human consumption; includes meat and poultry inspection, animal and plant quarantine and disease and pest control programs.

F. *Commodity Credit Corporation*—its objective is to stabilize and protect farm income and prices, to assist in maintaining balanced and adequate supplies of agricultural commodities and their products, and to facilitate the orderly distribution of commodities.

G. *Cooperative State Research Service*—administers funds for research conducted in the states on agriculture, rural development and human nutrition, primarily through land grant colleges.

H. *Economic Research Service*—develops and carries out a program of research to provide economic intelligence for agriculture-related industries, and regarding all aspects of food production, consumption and prices.

I. *Extension Service*—in cooperation with state and county governments, conducts continuing education programs for youth and adults in agricultural production, home economics, family life and related subjects.

J. *Farmer Cooperative Service*—conducts studies to support cooperatives that market farm products, purchase production supplies, and perform related business services .

K. *Farmers Home Administration*—provides credit for those in rural America who are unable to get credit from other sources at reasonable rates and terms.

L. *Federal Crop Insurance Corporation*—promotes the general welfare by providing crop insurance against loss from unavoidable causes such as weather, insects, and disease.

M. *Food and Nutrition Service*—administers the Department's various food assistance programs, such as food stamps and child nutrition programs.

N. *Foreign Agricultural Service*—is an export promotion and service agency for U.S. agriculutre.

O. *Forest Service*—promotes conservation and wise use of the nation's forests and land resources, including recreational uses.

P. *Office of Communications*—provides information on all consumer programs of the Department. Publications, slides, film strips and exhibits on a variety of subjects of interest to consumers are available free or for a minimal charge.

Q. *Packers and Stockyards Administration*—administers the Packers and Stockyards Act of 1921. The principal objective of the act is to assist in the maintenance of free competi-

tive practices in the marketing of livestock, meat and poultry, as well as meat and poultry products.

R. *Rural Development Service*—coordinates social and economic development programs in rural areas of the nation, including a wide range of assistance measures for communities of 10,000 population or less.

S. *Rural Electrification Administration*—makes and guarantees loans to finance electric and telephone service in rural areas.

T. *Soil Conservation Service*—has the responsibility for developing and carrying out a national soil and water conservation program in cooperation with landowners and operators and other land users and developers, with community planning agencies and regional resource groups, and with other agencies of government—Federal, State and local.

U. *Statistical Reporting Service*—prepares estimates and reports of agricultural production, supply, price and other items necessary to the orderly operation of the U.S. agricultural economy. These reports include statistics on field crops, fruits and vegetables, cattle, hogs, poultry, and related products. Other estimates concern prices received by farmers for products sold and prices paid by them for commodities and services.

IV. Departmental Plan

COMMITTEE FOR CONSUMER RESPONSIVENESS

Purpose: The Committee for Consumer Responsiveness is established for the purpose of coordinating the Department's interests and responsibilities as they affect consumers and consumer groups, and assuring that relevant Departmental decision-making processes are open to effective expression of informed consumer viewpoints.

Objectives: The objectives of the Committee are (1) to facilitate an appropriate public input in the setting of the Department's priorities and goals; (2) to promote continuing awareness among consumers and consumer groups of proposed changes in policies and regulations and the bases therefor; and (3) to serve as a focal point in the Department where major consumer complaints and comments can be reviewed and appropriate action taken.

Functions: The Committee will advise the Secretary on Department-wide activities as they relate to consumer participation, and will seek avenues through which further consumer participation can be developed. The Committee may also consider major Departmental issues of interest to consumers. On occasion, the Committee for Consumer Responsiveness may meet jointly with the USDA National Consumer Advisory Committee or with other appropriate consumer representatives for any of these purposes.

Membership: The Committee will consist of a minimum of ten Agency Administrators. The chairperson for the Committee will be the Assistant Secretary for Marketing and Consumer Services. The vice-chairperson will be the Special Assistant to the Secretary for Consumer Affairs. The Committee will meet at the call of the chair, or at least bimonthly, for the consideration of Departmental activities of interest and importance to consumers.

Staff Support: The Office of the Special Assistant will provide necessary staff support for the Committee. Departmental agencies may be called upon to provide further staff support and assistance as needed.

B. USDA NATIONAL CONSUMER ADVISORY COMMITTEE

A USDA National Consumer Advisory Committee will be established under Federal Advisory Committee Act procedures and Departmental regulations. The Committee will be comprised of consumer representatives knowledgeable with respect to Departmental programs and activities. The Committee will meet at least two times annually. The Committee will advise the Secretary with respect to (1) policy matters of significant interest to consumers; (2) the effectiveness of the Department's overall efforts with respect to expression and consideration of consumer viewpoints; (3) problems of primary importance to consumers; and (4) means by which unmet consumer needs can appropriately be met by the Department and its agencies.

C. OTHER USDA NATIONAL ADVISORY COMMITTEES

All other USDA national advisory committees whose composition is not prescribed by law and which deal with matters having significant impact on consumers, as determined by the Secretary, will have consumer representation in their memberships.

D. PROCEDURES TO BE FOLLOWED ON SIGNIFICANT CONSUMER PROPOSALS

Each Agency Administrator will use the following procedures when contemplating a major change in agency policy, or any action which will have a significant impact on consumers. These internal management procedures will be followed to assist the Secretary and agency heads in considering consumer views in connection with the development and implementation of proposals having significant impact on consumers.

Notice

Agency administrators will seek consumer input at an early stage in connection with any proposal involving a major change in agency policy, when the issues are likely to have a significant impact on consumers. Depending upon the degree of possible impact on consumers, and the level of consumer interest, the form of consumer involvement may include publication of a Notice of Intent to promulgate proposed regulations. The Notice of Intent shall be a concise statement of the intent to develop a regulation, identifying the issues involved.

Comment Period

When proposals are published in the Federal Register, and such proposals have been identified as having significant impact on consumers (based on the five (5) factors listed below), an extended comment period will be utilized to provide an adequate opportunity for consumer input.

Consumer Summary

When any such proposal is published in the FEDERAL REGISTER, it will contain a "consumer summary," a short explanation of the proposal in easy-to-understand language spelling out its major points and its possible impact on consumers. Likewise, announcement of final Departmental action in the FEDERAL REGISTER on such proposal will include a concise statement evaluating the viewpoints expressed by consumers.

Consumer Viewpoints

Consumer viewpoints received on any proposal by the Special Assistant to the Secretary for Consumer Affairs will be expressed to the appropriate decision-makers for their consideration before a final decision is reached on such proposal.

Impact Criteria

The following factors will be considered by Agency Administrators in determining whether an issue has significant impact on consumers:

1. Is there a history of consumer interest in the issue?
2. Are there adverse social and economic impacts?
3. Are these impacts long-term or short-term?
4. Are the consequences irreversible or irretrievable?
5. Is there potential for widespread controversy?

Emergency Situations

Consideration of consumer interests under this Plan may be suspended in emergency situations which involve imminent hazards to human health, or the control of outbreaks of animal or plant diseases or widespread infestations of pests.

E. CONSUMER COMPLAINTS

Complaints by consumers, consumer groups, or other members of the public with respect to any Departmental matter may be addressed either to the Agency involved or to the Special Assistant to the Secretary for Consumer Affairs. All such complaints will be seriously considered and promptly answered. The Special Assistant for Consumer Affairs will have access to all complaints filed with the Department and will analyze complaints received on major issues and render advice with respect to appropriate changes in Department policies and programs.

F. COORDINATION

The Assistant Secretary for Marketing and Consumer Services will be responsible for program coordination, and the Special Assistant to the Secretary for Consumer Affairs will be responsible for assisting Department agencies in implementing this Consumer Representation Plan. Each agency will provide to the Special Assistant a summary of consumer issues as they arise. The Special Assistant will make periodic written reports to the Secretary of Agriculture and to Agency Administrators on consumer concerns and recommended actions.

G. THE SPECIAL ASSISTANT TO THE SECRETARY FOR CONSUMER AFFAIRS

The Special Assistant to the Secretary for Consumer Affairs serves as a focal point for coordinating Department consideration of consumer viewpoints; acts as liaison between the Department and consumers, including consumer organizations, consumer specialists in Federal, State, and local governments, and consumer representatives in private industry; and expresses consumer viewpoints to Department officials whenever appropriate in connection with major Department proposals having significant consumer impact. The Special Assistant also serves to communicate to consumers and consumer groups Departmental action on issues having significant consumer interest.

Specifically, the Special Assistant:

Consults with and advises Department officials, including the Secretary, with respect to issues and questions of importance to consumers, and serves as a liaison between the Department and consumer organizations.

Coordinates responses to consumer complaints addressed to the Department.

Serves as a spokesperson for the Department and for the Secretary at appropriate events which focus on consumer issues, including conventions, panels, seminars, and other events.

Aids in developing programs for informing the public of Department services to consumers.

Maintains liaison with other consumer affairs specialists in the Federal Government, State and local governments, and private industry.

The Special Assistant to the Secretary for Consumer Affairs is: Nancy Harvey Steorts, U.S. Department of Agriculture, Room 225–W, Washington, D.C. 20250, and will serve as Consumer Contact at the Department.

H. AGENCY CONSUMER COORDINATORS

The Administrator of each major Department agency will appoint a consumer coordinator who, in this capacity, will report directly to the Administrator of that agency and will work with the Special Assistant to the Secretary for Consumer Affairs. The individual so designated will assist the Administrator in coordination of the agency's activities as they relate to consumer interests. There will be regularly scheduled meetings of the agency consumer coordinators with the Special Assistant. The agency consumer coordinator will recommend programs for open communication with consumer leaders and organizations, reflect consumer viewpoints in the formulation of agency policies that affect consumers, increase awareness among all agency personnel of their responsibility to serve consumers, and act as a means of channeling significant agency information to consumers and consumer groups. The following will serve as Agency consumer coordinators:

Agricultural Marketing Service, Mr. Tom Porter, Director, Federal-State Marketing Improvement Program, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–7691.

Agricultural Research Service, Mr. Gene Farkas, Director of Information, Agricultural Research Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–5787.

Agricultural Stabilization and Conservation Service, Mr. William Cummings, Director of Public Information, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–5237.

Animal and Plant Health Inspection Service, Dr. Harry Mussman, Associate Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–3861.

Cooperative State Research Service, Dr. Elizabeth Davis, Coordinator of Home Economics Research, Cooperative State Research Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–4329.

Economic Research Service, Dr. Alden Manchester, Program Leader, Economic Research Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–8707.

Extension Service, Mrs. Josephine Lawyer, Family Resource Management Specialist ES-Home Economics-USDA, Extension Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–6079.

Farmers Home Administration, Mr. Walter Bunch, Director of Information, Farmers Home Administration, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–4323.

Federal Crop Insurance Corporation, Mr. Tom Lodge, Assistant Director of Information, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–4006.

Food and Nutrition Service, Mrs. Bonnie Whyte, Deputy Director, Information Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–8138.

Foreign Agricultural Service, Mr. Philip Mackie, Deputy Assistant Administrator, Foreign Commodity Analysis, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–3510.

Forest Service, Mr. Robert Lake, Director of Information, Forest Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–3760.

Office of Communications, Mr. Theodore Crane, Chief of Special Reports Division, Office of Communications, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–4335.

Packers and Stockyards Administration, Mr. Sebastian Filippone, Director of Information, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7415.

Rural Development Service, Mr. Gary Madson, Deputy Administrator, Rural Development Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–7595.

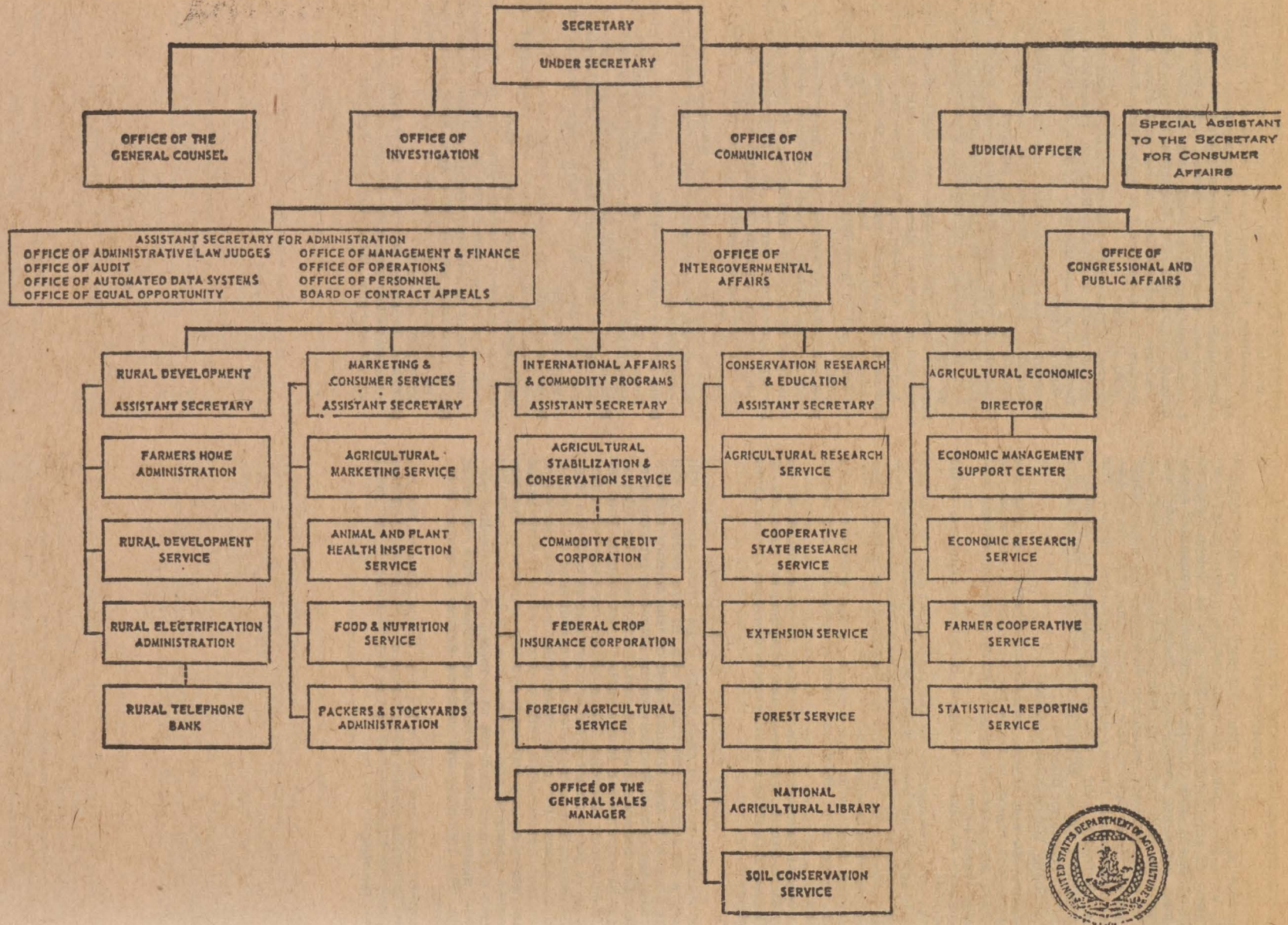
Rural Electrification Administration, Mr. Dan Jones, Member Surfaces Coordinator, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–4245.

Soil Conservation Service, Mrs. Anne Zack, Writer, Soil Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250(202) 447–3875.

Statistical Reporting Service, Mr. Kent Miller, Director of Information, Statistical Reporting Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–5455.

APPENDIX

U.S. DEPARTMENT OF AGRICULTURE



DEPARTMENT OF COMMERCE

Consumer Representation Plan

PRIMARY CONSUMER CONTACT

Staff Director, Consumer Affairs Council and Director of Consumer Affairs, Room 3800, U.S. Department of Commerce, Washington, D.C. 20230 (202) 377-3176.

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2. National Bureau of Standards.
3. Domestic and International Business Administration.
4. National Fire Prevention and Control Administration.
Appendix A.—Organization Chart of the U.S. Department of Commerce.
Appendix B.—Summary of Public Comments and Hearings.

I. STATEMENT OF PURPOSE

The U.S. Department of Commerce provides a wide range of services to the general public and to business in discharging its mission of encouraging economic growth. The Department was established by the Congress in 1903 to "foster, promote, and develop the foreign and domestic commerce . . . of the United States." Because commerce by definition involves an interdependent relationship between buyer and seller, the Department recognizes its role in being as responsible and accountable to the consumer as it is to business. The purpose of this Consumer Representation Plan is to assure that consumers' needs and opinions are solicited and duly considered in the decision-making processes of the Department of Commerce.

II. EXECUTIVE SUMMARY

The Consumer Representation Plan of the Department of Commerce describes the consumer-related activities of the Department and the primary operating units responsible for these programs. Current procedures for consumer participation and public disclosure are identified, and recommendations are made for increasing and improving consumer involvement.

Major initiatives are outlined for influencing and coordinating consumer representation activities throughout the Department.

Primary Consumer-Related Activities and Operating Units Involved

The Department's primary consumer-related activities include the functions of product information, inspection, and grading; standards-making; technical assistance; and commercial practices. Other activities such as trade policy development have an important, but indirect impact on consumers.

The organizational units regularly involved in major policy decisions and implementing actions that have a direct or significant consumer impact are as follows:

National Marine Fisheries Service, National Oceanic and Atmospheric Administration.
National Bureau of Standards.
Domestic and International Business Administration.
National Fire Prevention and Control Administration.

Highlights of programs and recommended actions for these units are presented below, along with newly initiated coordinating mechanisms provided for other operating units that have less direct impact on consumers.

Initiatives for Influencing and Coordinating Consumer Representation

In order to ensure that consumer views are adequately considered in the Department's decision-making process, the Consumer Representation Plan includes the following significant initiatives:

1. *Department of Commerce Consumer Affairs Council.* The Plan establishes an intradepartmental Consumer Affairs Council as a primary mechanism for assuring effective consumer representation throughout the Department. In monthly meetings, the Council considers consumer-related issues, prepares recommendations for policy officials, and submits regular reports to the Secretary of Commerce. The Council is chaired by the Assistant Secretary for Administration, underscoring the Department's commitment to assure significant programs of consumer representation. The Director of the Consumer Affairs Division serves as Staff Director of the Consumer Affairs Council, providing a highly visible liaison between the Division, the Council, and the top management of the Department of Commerce.

2. *Establishment of a permanent Consumer Affairs Division to coordinate the Consumer Representation Plan.* The Director of the Consumer Affairs Division presents consumer views to policy makers, facilitates consumer involvement in Department activities, and is the point of contact for consumer inquiries and complaints. The Director serves as the consumer advocate within the Department in reviewing programs and legislation which impact on the consumer, and recommends actions that are responsive to consumers' needs. The Consumer Affairs Division maintains contact with consumer organizations and other public groups, and is responsible for information and education activities for both consumers and the business community.

3. *Consumer Representation on Department of Commerce Advisory Committees.* The Secretary of Commerce has directed that one or more well qualified consumer representatives be included in the membership of the Department's 75 advisory committees, except where there are statutory or other valid constraints, to assure the broadest possible consumer input into departmental decisions. Specific procedures will be implemented to afford consumers timely opportunity and relevant information to participate in open meetings of committees for which it is not feasible to add consumer members.

The Consumer Representation Plan has resulted in the development of other special programs within the Department. To improve communications among the consumer, business, and Government, and to encourage an affirmative response by business to consumer expectations, the Bureau of Domestic Commerce has initiated a series of business-consumer relations conferences in various cities during the coming year. Further, to facilitate public discussion of national economic issues, the Department has established a public hearings program whereby persons can make their views known directly to policy officials without the need to travel to Washington, D.C.

Highlights of Selected Programs and Recommended Actions

NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The National Marine Fisheries Service, NOAA, utilizes several consumer representation techniques in administering the voluntary seafood inspection and standardization programs. Consumer views are solicited whenever changes in services, regulations, or rates are under consideration. Methods regularly employed include notices in the FEDERAL REGISTER, the *Consumer Register*, and *Consumer News;* newspaper consumer columns; letters to consumer organizations; and personal contacts. The use of radio and television spot announcements is planned.

The National Marine Fisheries Service also develops voluntary standards of quality, condition, and grade for fish and fishery products; provides technical assistance in elaborating international standards of identity and quality for fishery

products; and establishes codes of hygienic practice for processing fishery products. Consumer and trade input is solicited when considering and reviewing standards. As an integral part of the standard-making process, NMFS places proposed rulemaking notices in the FEDERAL REGISTER, holds public hearings if deemed necessary, and invites comments from consumer interest organizations. NMFS plans to increase usage of radio, television, consumer publications, and business-consumer seminars to solicit consumer opinions.

NATIONAL BUREAU OF STANDARDS

The National Bureau of Standards consumer-related programs are designed to maximize benefits to the consumer of NBS-developed technology and expertise in the areas of product performance, standardization, economy, and safety. Its activities include a publications program to make available the results of NBS research on topics of consumer interest, to develop better test methods for measuring product performance, and to provide product performance information to the consumer.

The National Bureau of Standards also administers the Department of Commerce "Procedures for the Development of Voluntary Product Standards". These standards may involve the health, safety, or economic characteristics of consumer goods. In addition, the Department's responsibilities under the Fair Packaging and Labeling Act are assigned to NBS.

In carrying out the foregoing activities, NBS utilizes a variety of means to obtain consumer views. In some cases, consumer sounding boards, surveys, and representation on evaluation panels are used to supplement official notices in rulemaking notices in the FEDERAL REGISTER, holds public the FEDERAL REGISTER. The Agency is also contemplating the use of consumer consultants in drafting energy conservation publications for home buyers and owners.

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

The Domestic and International Business Administration carries out a number of programs that affect consumers. Activities of primary interest are the development of legislative recommendations, participation in trade negotiations, the administration of short supply export controls, the negotiation of international textile and apparel agreements, and the provision of information and assistance in response to consumer inquiries.

In the case of the legislative program, internal procedures have been established to ensure that interested Agencies, persons, or groups are asked for their views during the formulation of departmental positions. With regard to trade negotiations, there are statutory requirements for consumer representation on an advisory committee and provision for consumer participation in public hearings. Department procedures for the administration of the Export Administration Act of 1969 require, whenever practicable, full public disclosure and participation in decisions to establish, modify or terminate short supply export controls. In negotiating and monitoring international agreements to limit the importation of textiles and apparel, the Domestic and International Business Administration is advised by three advisory committees, one of which will include consumer representation, effective June 30, 1976. Consumer representatives will be added to the other two committees shortly thereafter.

The capability for responding to consumer inquiries has been upgraded through the establishment of a Consumer Affairs Division, as previously described.

NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION

The National Fire Prevention and Control Administration, established by the Federal Fire Prevention and Control Act of 1974, works directly with the public in both its research and educational programs. NFPCA reviews fire codes, examines the causes of fires, and presents its conclusions to fire departments across the country. Its programs are targeted to reduce fire loss, thereby also lowering premiums for insurance coverage. The Agency will use surveys as one of the principal tools for ascertaining and evaluating consumer needs in the area of fire safety.

III. DEPARTMENTAL PLAN

Heads of all departmental operating units are directed to take such steps as are necessary to ensure that a balanced viewpoint is obtained when considering legislation, regulations, or administrative decisions affecting consumers. In the absence of voluntary participation by an affected group, operating units should make a positive effort to elicit the views of such groups. Where the Administrative Procedure Act applies to rulemaking or adjudicative proceedings, the operating unit's consumer representation plan will supplement the statutory requirements for public disclosure and public participation; for activities that are exempt from the Administrative Procedure Act, the consumer representation plan should provide, at a minimum, comparable opportunities for public information and input.

A. PRIMARY CONSUMER-RELATED ACTIVITIES AND OPERATING UNITS INVOLVED

Pursuant to its various statutory responsibilities, the Department of Commerce carries out several programs that affect consumers directly, and, as an agency of the Executive Branch, the Department participates in the policymaking process as it relates to many other Federal consumer activities. In terms of function, the Department's consumer-related activities generally fall into one of the following categories: (1) inspection and grading, (2) standards-making, (3) technical assistance, (4) product information, or (5) commercial practices. Other activities, such as trade policy development, have an important, but indirect impact on consumers.

The organizational units regularly involved in major policy decisions and implementing actions that have a direct or significant consumer impact are as follows:

National Marine Fisheries Service, National Oceanic and Atmospheric Administration.
National Bureau of Standards.
Domestic and International Business Administration.
National Fire Prevention and Control Administration.

Other operating units that have a less direct impact on consumers will be required to (1) appoint (or maintain) consumer representatives as members of advisory committees, except where statutory or other valid constraints clearly preclude such appointments; and (2) to participate in Departmental consumer activities as Associate Members of the Consumer Affairs Council. In this capacity, the units will be responsible for bringing to the attention of the Council the development of any programs, policies, or issues within their areas of operation that have consumer impact or interest.

B. INITIATIVES FOR INFLUENCING AND COORDINATING CONSUMER REPRESENTATION

In an effort to provide for maximum consumer representation in decision-making and program development of the Department, the following major initiatives have been established:

1. *Department of Commerce Consumer Affairs Council.* As a coordinating mechanism, an intradepartmental group has been established to consider consumer-related issues and prepare recommendations for policy officials. This group consists of Regular and Associate Members, representing organizational units having direct and indirect consumer-related responsibilities and programs, respectively, as well as representatives from the Office of the General Counsel, Communications, and Policy Development and Coordination. The Consumer Affairs Council, chaired by the Assistant Secretary for Administration, meets monthly and submits regular reports on consumer matters to the Secretary of Commerce. The Director of the Consumer Affairs Division serves as Staff Director of the Council, providing for effective communication and a highly visible liaison between the Division, the Council, and the top management of the Department of Commerce.

2. *Consumer Affairs Division.* In order to ensure that consumer views are adequately considered in the administration of departmental programs, a permanent Consumer Affairs Division has been established in the Office of the Ombudsman. The Division serves as the point of contact for consumer inquiries and complaints, presents consumer views to policy makers, and facilitates consumer involvement in Department activities. As the consumer advocate within the Department, it reviews programs and legislation which impact on the consumer, and recommends actions that are responsive to consumers' needs. Functions of the Division include:

a. *Response to Inquiries.* Respond to consumers' questions about business or the Federal Government and other consumer-related matters.

b. *Registration of Complaints.* Endeavor to assist consumers to find satisfactory solutions to difficulties they have had with business or the Federal Government and identify agencies with jurisdiction at the Federal, State and local level, when appropriate.

c. *Identify Trends.* Distill out of consumer complaints and difficulties their recommendations, suggestions and views as related to Department recommendations and positions on policy, legislation and programs.

d. *Collect Consumer Opinion.* Conduct studies and surveys of consumer views on various issues, using the Department's 43 Field Offices and their contacts with consumers and consumer organizations across the country to obtain a broad cross section of consumer opinion on Departmental positions, policies, and programs; making such views known to policy officials, including the Consumer Affairs Council.

e. *Business Education.* Holding business-consumer relations seminars and prepare publications, articles, speeches and other communications to inform business people of problems consumers are having with business practices, highlighting adverse impacts such practices are having on consumers and business itself, and urging corrective actions.

f. *Consumer Information.* Prepare publications, news releases, public service announcements, speeches, and other communications to inform consumers of actual statistics, facts, and results of studies about current issues to increase their understanding and responsiveness to Departmental activities.

3. *Consumer Representation on Department of Commerce Advisory Committees.* Operating units and departmental offices which utilize advisory committees, boards, councils and similar groups as a source of expert advice and opinion are directed to appoint one or more consumer representatives to the membership of such groups wherever possible. Specific target dates for implementation of this directive have been assigned, and, where appropriate, consumer representatives will be given preference in filling unanticipated vacancies. In cases where it is clearly not feasible to add a consumer representative as a member, because of statutory or other valid constraints, the responsible officials have been requested to identify consumer or public organizations that have an obvious or likely interest in the committee's objectives. Henceforth, whenever a notice is sent to the FEDERAL REGISTER announcing an open or partially open meeting of one of the committees in this category, a copy will be mailed to each such organization.

4. *Business-Consumer Relations Seminars.* The Department's Bureau of Domestic Commerce has scheduled a series of business-consumer relations seminars during the coming year. These sessions are patterned after a pilot seminar held in Chicago on September 24, 1975. Their purpose is to encourage business action to improve consumer relations by acquainting business with consumer expectations, business alternatives for positive response to these expectations, and Government effort in behalf of consumers at the Federal, State, and local levels. Consumer views of business-consumer relations are an important feature of the seminar program.

C. INDIVIDUAL AGENCY PLANS

Departmental components regularly involved in major policy decisions and implementing actions that affect consumers significantly have developed consumer representation plans appropriate to their respective missions and functions. These individual plans are set forth in detail below.

1. NATIONAL MARINE FISHERIES SERVICE, NOAA

Two major programs operate within the National Marine Fisheries Service (NMFS):

a. *Voluntary Seafood Inspection Program.* The purpose of the voluntary fee-for-service seafood inspection program, in lieu of mandatory inspection such as that applicable to red meat and poultry, is to assure consumers of a uniformly nutritious and palatable food. Inspection service users pay fees for USDC inspectors to be in their plants during operations to evaluate and grade their raw materials, to ensure the hygienic preparation of products and to assure quality.

b. *Voluntary Seafood Standardization Program.* The purpose of the voluntary seafood standardization program is to develop and improve national and international standards and specifications of quality, condition, quantity, grade, and packaging for fish and fishery products, and to recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices, protect consumer health, and facilitate international trade.

The key points at which consumer inputs are solicited are when new services or other program changes are under consideration, when regulation or standard changes or additions are contemplated, and when rate changes are deemed necessary. The procedures used by the National Marine Fisheries Service (NMFS) to solicit consumer opinion include placing proposed rulemaking notices in the FEDERAL REGISTER which invite the readers to respond in writing within 45 days concerning the standard in question. The letters are collected, analyzed, and maintained for review by interested parties. A subsequent FEDERAL REGISTER notice of public hearings, if deemed necessary, is published to invite interested parties to review the draft standards at meetings held in several locations around the United States. Executive conferences are held on the written and oral responses and decisions are made, based on the results. The FEDERAL REGISTER notices are also published in the National Marine Fisheries Service's five *Market News Reports.*

Statements of Interest and Intent are also often placed in the FEDERAL REGISTER, inviting readers to respond in writing within sixty days concerning an outlined plan of action. The letters are also analyzed and program decisions are made, based on the results.

Placing articles with writers of consumer-oriented newspaper and newsletter columns has provided the largest volume of written responses reflecting consumer attitudes. The columnist is asked to put the address of NMFS in the article so that readers can write directly. Analysis of the responses provides valuable insight into current consumer attitudes, which helps to form program policy.

Letters are also sent directly to a variety of consumer interest groups. These letters focus the group leader's attention on specifics and usually result in a formal, documented response. This kind of input also reflects the official stand of the consumer group, rather than the opinion of an individual member. Personal contact with consumer and trade group leaders at meetings and conventions is also employed. This method provides a degree of candidness not possible through written responses.

The future use of radio and television spot announcements to obtain consumer input and responses is planned. Spot announcements are to be distributed nationally for exposure on public service time. The spots will be educational and provide an address to which interested parties may write. Response to this type of effort is best used to quantify the value of, or interest in, materials or programs that have been developed and are operational. A far greater usage of individual consumer interest group publications, as well as radio and television as media for soliciting consumer opinion on issues, is also planned.

The use of business-consumer seminars is also scheduled for the future. These seminars will be designed to provide a forum for business and consumer representatives to meet and discuss their respective points of view on specific issues. By opening this type of dialogue, NOAA will be able to bring the two groups into closer harmony and provide accurate, meaningful input from both interest areas from which sound consumer-oriented program decisions can be made.

In early 1975, the Administrator of NOAA established an effort to increase consumer education regarding the functions of the voluntary fishery inspection service in assuring the availability of quality fishery products.

The Consumer Education Program maintains contact with key consumer advocates, newspaper food editors, magazine editors, radio executives, TV executives, fishing industry members, advertising executives, and consumer groups to develop meaningful approaches to explain the inspection program to consumers.

Based on the responses, news releases, radio spot announcements, television spot announcements, teacher lesson plans, newspaper articles, magazine articles, convention exhibits, and other education information materials for consumers are scheduled for development. All educational materials are reviewed for content by consumer interest representatives and communications specialists before final printing and distribution of the materials.

The Consumer Education Program receives input from the Marine Fisheries Advisory Committee. To provide consumer representation, the membership of the Committee will be re-

viewed regularly to ensure that at least one consumer representative is retained on the Committee.

2. NATIONAL BUREAU OF STANDARDS

a. *Consumer Product Technology Programs.* In December 1974, in an effort to consolidate consumer product activities at the National Bureau of Standards, the Center for Consumer Product Technology (CCPT) was established within the Institute for Applied Technology. The Center's activities are designed primarily to maximize the benefits of NBS-developed technology and expertise for the Nation's consumers in the areas of product performance and safety. Included among the Center's activities are consumer publications, product performance studies, product energy use measurement, and the development of test methods for consumer product safety standards.

Consumer Sounding Boards. NBS is utilizing four local consumer sounding boards, which are composed of a demographic cross section of consumers convened for the purpose of providing standards-making organizations with direct consumer involvement in their programs. The CCPT is the focal point for NBS activities with the sounding boards.

Evaluation Panel. An Evaluation Panel, appointed by and responsible to the National Academy of Sciences (NAS) and composed of leaders in research and management from industry, universities, and other areas convenes periodically to review and evaluate the functions and operations of the CCPT. The Panel considers the relation of the Center's programs to the mission of the Bureau, as well as the importance and relative priority of projects, the nature and composition of staff, and equipment needs. This Panel now has been expanded to include three representatives from the field of consumer affairs.

Consumer Surveys. Formal consumer studies are routinely conducted in the course of implementing CCPT programs. The studies involve surveys of consumers to determine information needs and product use patterns.

CCPT plans to improve the current methods for soliciting consumer inputs. This will be accomplished by: (1) Improving the representativeness number, and geographic distribution of the consumer sounding boards; (2) increasing sample size and representativeness of respondents in consumer studies; and (3) establishing closer working relationships with consumer organizations.

Further, the CCPT will take positive actions to increase consumer inputs, improve their relevance and timeliness, and further ensure their consideration in the organization's decision-making process. The following will be included among these actions:

Improved Information. In cooperation with the General Services Administration Consumer Information Center, the CCPT will develop methods for surveying consumers to determine the acceptance and utility of informational materials published by the CCPT and other Federal Agencies and to determine the consumer's interest and need for such information.

Consumer Use Patterns. As part of the activity to measure product energy use, CCPT has equipped a home test facility at NBS with energy and behavioral monitoring devices to observe and collect data on the use patterns of consumer products. Measurements of appliance-related energy use are also being collected in this facility and in a sample of private homes.

Product Information Conference. It is proposed that a conference of appropriate Government, industry, and private representatives in the consumer affairs field be convened in fiscal year 1977. The purpose would be to provide a mechanism for improving consumer and industry awareness of NBS efforts in the consumer product technology area, as well as a means for achieving greater consumer impact.

The efforts to increase consumer participation in CCPT activities are designed to bring consumer influence to bear on the choice of products to be selected and the characteristics of the products to be tested. In addition, consumer participation will help to assure that test methods will be representative of actual use patterns and that test results will be expressed in terms which are easily understood by the consumer.

b. *Voluntary Product Standards Program.* The Department of Commerce acts as the coordinator in the development of voluntary product standards. When a standard is accepted and approved for publication, a standing committee of producers, distributors, and consumer or user representatives is established to review the standard continually in the light of advancing technology; to provide interpretation of provisions of the standard; and to make recommendations for revising or amending the standard, if needed. Care is taken in the formation of such committees to assure balance among the representation of the three segments.

NBS has increased efforts to secure consumer participation through the use of consumer sounding boards (to date, those of New York and Philadelphia) to review standards of direct interest. This increase in consumer input to the standards process should provide ideas for new standards, as well as amendments to, or revision of, developing or existing standards.

c. *Fair Packaging and Labeling Standards.* Under the Fair Packaging and Labeling Act (FPLA), the Department conducts and promotes package quantity standardization and uniform labeling standards for commodities distributed for sale at retail. One purpose of these activities is to assist consumers to make value comparisons when purchasing packaged products by reducing proliferation in the number of package sizes of consumer commodities. Another purpose is to help consumers select packaged commodities more readily and economically by securing uniform labeling regulations among the States.

Activities of the Consumer Laws and Regulations-FPLA projects that have a substantial impact on consumers are these:

(a) The development of simplified package quantity standards and concomitant market surveillance activities; and

(b) The development of the Model State Weights and Measures Law, Model State Packaging and Labeling Regulation, Model State Unit Pricing Regulation, Model State Method of Sale Commodities Regulation, and Model State Open Dating Regulation (copies of which are available to consumers free of charge).

It is planned that the FPLA project will make use of the Washington Metropolitan Area Consumer Sounding Board and other similar organizations which are composed of a cross section of consumers. Members of the boards also will be able to review new metric quantity package standards that are to be issued in the near future. Additionally, these standards will be presented to the Standards Application and Analysis Division Evaluation Panel, which, in the manner described for the Voluntary Product Standards Program above, evaluates the activities of this project. This Panel is broadly representative of all sectors of the community. A consumer advocate, a State weights and measures official, a scale manufacturer's representative, and other private industry representatives are members of the Panel. The Consumer Products Coordinating Committee of the American National Metric Council will also participate in the review of these standards.

Development of the model laws and regulations is carried out through the National Conference on Weights and Measures (NCWM) and its Committee on Laws and Regulations. This Conference—which serves as a mechanism to achieve uniformity, extend consumer protection, and maintain equity between buyers and sellers—is composed of weights and measures enforcement officials. Consumer organizations, as well as representatives of industry, are in attendance each year.

Positive action will be taken to increase consumer inputs, particularly at the interim meetings of the Committee on Laws and Regulations. The immediate plan of action will be to issue a news release announcing the interim meetings and including a synopsis of some of the issues to be discussed. Also, consumer representatives will be provided the opportunity to submit comments on any of the items to be discussed during the meetings. NBS is exploring the feasibility of setting up an advisory group of selected consumer representatives to review packaging and labeling matters.

d. *Energy Conservation Retrofitting Program.* The energy-conservation-in-buildings program involves a number of activities which may have a substantial impact on consumers

as homeowners or home buyers. One example is the recently produced consumer information pamphlet entitled, "How to Make the Most of Your Energy Dollars," which provides guidelines for homeowner decisions concerning residential retrofitting for energy conservation. NBS is currently developing similar documents under contract with the Energy Research and Development Administration. The energy conservation standards for building design also should have a very significant impact on future homeowners.

Actions to date regarding consumer participation include the following:

(1) The Advisory Board for the NBS Center for Building Technology is broadly representative of the building community and includes consumer representation. This committee assures that the projects and programs are designed to benefit consumer groups, as well as the building community.

(2) Positive actions to increase consumer inputs and improve their relevance and timeliness also will include the use of consumer representative consultants in drafting home buyer/owner and other publications and the test marketing of publications designed for consumers.

3. DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

a. *Legislative Recommendations.* The Bureau of Domestic Commerce regularly contacts interested groups about legislative issues and summarizes their comments and positions in a legislative abstract, which is then forwarded with the Bureau's recommendations to the General Counsel. In this process, the Department will make a greater effort to obtain and consider consumer views in the development of positions on pending legislation.

The Bureau of Domestic Commerce frequently initiates studies designed to assess the economic impact of various existing or proposed regulatory actions, which may lead to recommended Departmental policy positions. Depending on the nature of the study, the consumer impact may be part of the analysis. In such cases, the Bureau obtains consumer input, input from existing data generated elsewhere in Government, private organizations, or consumer groups.

b. *Trade Negotiations.* Consumer views and consumer representation are taken into account in the multilateral trade negotiations:

The Trade Act of 1974 provides for an Advisory Committee for Trade Negotiations to obtain overall policy advice on any trade agreement negotiated under the Act. The Committee is composed of not more than 45 individuals and includes representatives of consumer interests. The committee held its initial meeting on January 9, 1976.

The Commerce Department has emphasized in publicizing its industry consultations program that it actively solicits the views of any and all persons and organizations not represented on any of the formally established committees, and a procedure has been developed to incorporate their views into the reports of the advisory committees.

The Trade Act provides for public hearings on all aspects of the negotiations by the Interagency Trade Policy Staff Committee, of which the Department of Commerce is a member. The Committee thus far has held over 9 weeks of public hearings. Numerous consumer organizations and individuals have presented testimony, which is being taken into account in the formulation of U.S. negotiating positions. Additional public hearings will be held from time to time as the negotiations proceed, and consumers will have further opportunities to make known their views to U.S. negotiators.

c. *Short Supply Export Control Programs.* In developing short supply export control policies, it is frequently necessary to act without advance consultation with any interested groups, lest the very act of consultation alert exporters to the likelihood of controls and stimulate a sudden rash of exports of the commodity which the controls are intended to conserve for domestic use. Obviously, the practicability of advance consultation will vary widely, depending upon the article, material, or supply it is proposed to control. With this reservation, however, where the Department initiates a study of the supply/demand, price conditions, and prospects for any item, with a view toward determining whether or not it is necessary to impose, substantively modify, or terminate export controls on any item "to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand," the Department shall:

1. Review and tabulate, to the extent feasible, expressions of consumer attitudes toward the subject as reflected in, inter alia, correspondence with the Department and telephone conversations and meetings between Department officers and consumer representatives;

2. Consider the practicability of scheduling a public hearing on the subject for the purpose of receiving oral and written testimony from interested parties, including the consuming public;

3. Where considered practicable, invite representatives of appropriate consumer groups to participate in any meetings scheduled with representatives of the affected industry(ies);

4. Carefully weight the likely impact on the consumer of the action under consideration and the proposed method of implementing it, and modify these plans as necessary so as to give adequate consideration to the interests of the consuming public to lessen any adverse impact upon that group;

5. Publish notice of all new quantitative restrictions on the export of any article, material or supply in the FEDERAL REGISTER and include therein an invitation to all interested parties to submit written comments within 15 days from the date of publication on the impact of such restrictions and the method of licensing used to implement them, as required under the Export Administration Act;

6. Publicize widely each decision to establish, substantively modify, or terminate short supply export controls, through issuance of a press release explaining in simple terms the action taken and the rationale for taking it;

7. Review all written comments received in response to publication in the FEDERAL REGISTER and modify the scope of the controls and the methods of licensing selected, as appropriate, so as to provide adequate recognition of the legitimate concerns of those persons submitting comments, including representatives of consumer groups and interests;

8. In considering whether or not to grant requested exceptions to the published regulations on grounds of unique hardship, adequately weigh the probable impact on the consuming public of granting or of withholding approval of the hardship petition.

d. *Textile and Apparel Agreements.* The Department's textile program is the responsibility of the Deputy Assistant Secretary for Resources and Trade Assistance and as such is the Chairman of the Committee for the Implementation of Textile Agreements (CITA), an interagency committee charged with coordinating the implementation of textile agreements signed by the United States Government.

The Chairman of CITA is advised by three formal advisory committees, comprised of representatives from textile industry management and labor, importing, and exporting sectors. Meetings are held in accordance with the Federal Advisory Committee Act and notices of meetings are published in the FEDERAL REGISTER at least 30 days prior to the meeting date. These advisory committees meet approximately every quarter, and the minutes of meetings are open to public review.

In accordance with the Department's Consumer Reorganization Plan, the textile importers' committee will include consumer members, effective June 30, 1976. As soon as possible thereafter, consumer representatives will be added to the other two advisory committees.

4. NATIONAL FIRE PREVENTATION AND CONTROL ADMINISTRATION

NFPCA's mission and its ultimate measure of success is the reduction of fire losses by 50% in 20 years. Consumer input is assured through these channels; Congressional communications, correspondence, interviews, and the general news media. A more detailed evaluation of consumer needs is available through the use of surveys. This technique is an inherent element of the NFPCA's management of programs of significant impact on the general public.

a. NFPCA Fire Safety Research. NFPCA develops, tests, and evaluates residential smoke detectors and related equipment which are practical, acceptable, and widely available to homeowners. Any such device or system will be tested in actual communities. Responses will be carefully monitored and will control final conclusions about the equipment.

The Administrator also evaluates fire prevention and building codes. The Act requires that the human impact in terms of comfort and habitability as well as fire prevention and control values, be considered. The program therefore, must incorporate careful regard for consumer viewpoints, as well as the technical advice of specialists.

In addition, a voluntary, cooperative program is ongoing for the development of Fire Effectiveness Statements. Any such statement suggested to builders and managers must be practical to be accepted. It is likewise recognized that the

Fire Effectiveness Statements must be understandable and acceptable to the public.

Priorities for the Fire Safety Research Office are routinely developed and future research areas will be determined only after rigorous survey and systematic observation. The cooperative nature of this function assures consumer input.

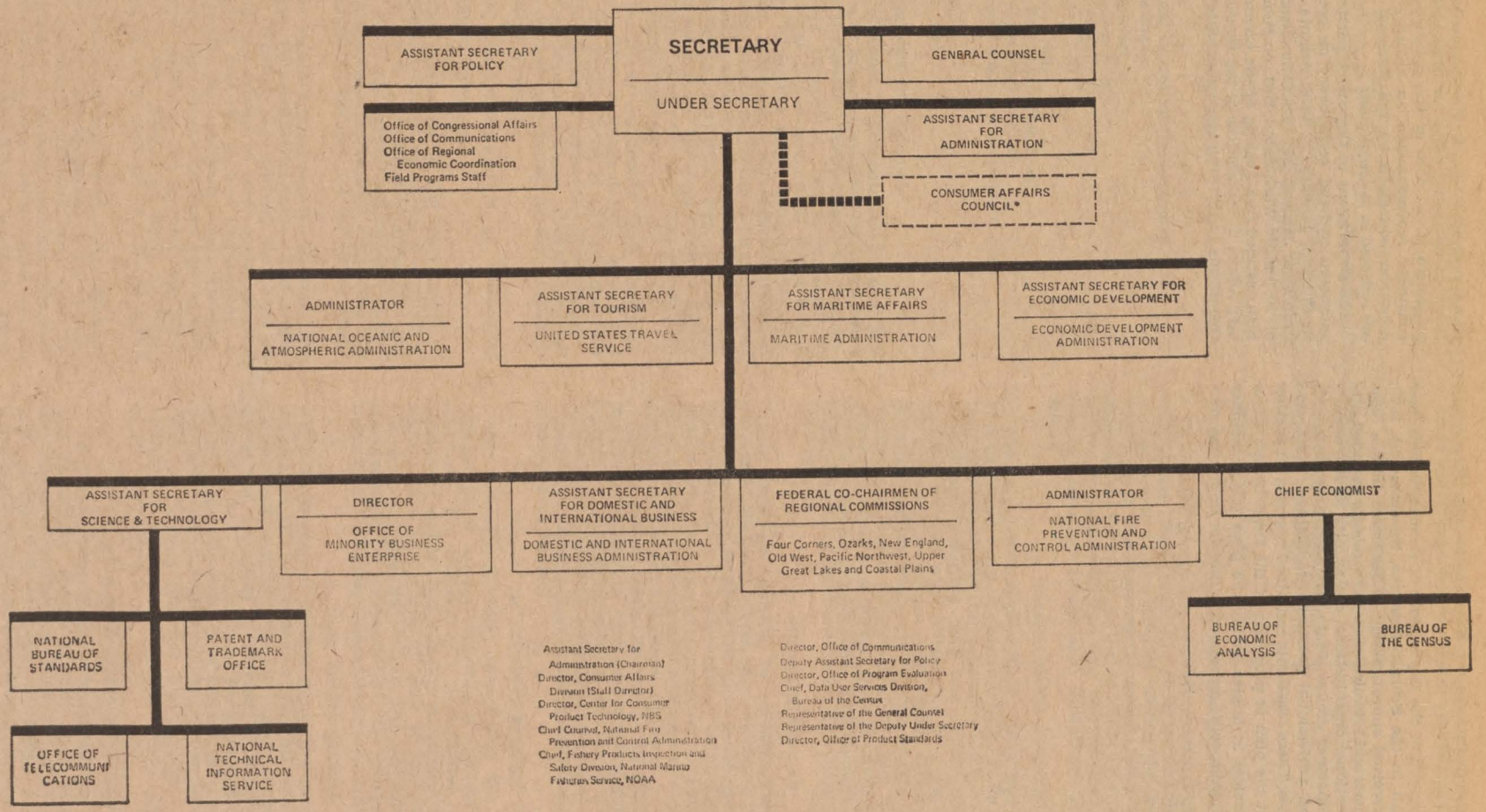
Finally, cooperation efforts are between the NFPCA and the Consumer Product Safety Commission (CPSC). The CPSC has the capability for a continuing survey of consumer injuries. This provides a constant, reliable source of actual consumer-use information. In addition, the CPSC continues to gain experience with the practical limits of regulatory authority. That, in conjunction with the NFPCA's unique technical expertise and specialized knowledge of human behavior in the fire field, as well as its contacts with specialists, encourages a vast range of consumer input.

b. *Public Education.* Targets for educational efforts consistent with statutory imperative are isolated through continuing analysis of surveys (such as the NFPCA's National Household Fire Survey), Center employees' trained observations, and contact with fire prevention and control personnel at every level. To date, the areas scheduled for Center efforts include: (a) Home safety inspections, (b) detection and extinguishing devices for home use, (c) procedures to follow in case of fire, (d) specialized information for occupancy categories—mobile homes, apartment buildings, and commercial establishments, (e) sources of ignition in the home—electrical appliances, flammable liquids, and smoking materials, and (f) programs tailored for the young and the elderly. The Center does not commence efforts in any area (such as those listed above) without extensive research into existing educational programs and possible alternatives. Research teams either include members of the target group or consult frequently with them. The demonstration projects involve selected population groups, whose reactions are carefully monitored. Each project is evaluated according to the participants' responses. Finally, in its resource exchange and dissemination role, the Center functions for those who ultimately bear the major burden of the teaching. The Center is not a monopoly; trade associations, unions, and most notably the National Fire Protection Association are active in this field. There is also a great variety of local initiative.

Tested educational programs and materials will be distributed to fire departments, education offices, schools, agricultural extension services, and organizations of the elderly. This locally-oriented instruction will be augmented by a national media campaign regionally coordinated with the particular educational program being carried out in that area.

APPENDIX A.—U.S. DEPARTMENT OF COMMERCE

U.S. DEPARTMENT OF COMMERCE



Assistant Secretary for Administration (Chairman)
Director, Consumer Affairs Division (Staff Director)
Director, Center for Consumer Product Technology, NBS
Chief Counsel, National Fire Prevention and Control Administration
Chief, Fishery Products Inspection and Safety Division, National Marine Fisheries Service, NOAA

Director, Office of Communications
Deputy Assistant Secretary for Policy
Director, Office of Program Evaluation
Chief, Data User Services Division, Bureau of the Census
Representative of the General Counsel
Representative of the Deputy Under Secretary
Director, Office of Product Standards

APPENDIX B.—PUBLIC COMMENTS AND HEARINGS ON THE DEPARTMENT OF COMMERCE PRELIMINARY CONSUMER REPRESENTATION PLAN

Following publication of the Department of Commerce consumer representation plan in the FEDERAL REGISTER, November 26, 1975, the Department received approximately 40 responses from a cross section of individuals and organizations. Respondents included private citizens, educational organizations, community service organizations, private consumer groups, State and local government offices, business and professional associations, business firms, and Congressional offices. These comments contained requests for further information about the plan or programs of the Department; offers of professional services in implementing the plan (e.g., consumer opinion surveys); and specific recommendations for improving consumer representation. Public comments were made available to the heads of operating units for their consideration in revising their respective plans. Two of the principal recommendations—greater consumer representation on advisory committees and expanded consumer education by the National Marine Fisheries Service—are reflected in the final plan.

The Department of Commerce participated in the White House-sponsored regional conferences on consumer representation held in Chicago, January 13, 1976; Atlanta, January 19, 1976; and San Francisco, January 29, 1976. The Department also held a hearing on its plan in Washington, D.C., on February 24, 1976, and a spokesman testified at a hearing of the Commerce, Consumer, and Monetary Affairs Subcommittee of the House Committee on Government Operations concerning consumer representation on March 9, 1976.

DEPARTMENT OF JUSTICE

Consumer Representation Plan

PRIMARY CONSUMER CONTACT

Consumer Affairs Unit. Office of Policy and Planning, Room 4236, U.S. Department of Justice, Washington, D.C. 20530 (202) 739–4603.

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I. STATEMENT OF PURPOSE

The purpose of the Consumer Representation Plan of the Department of Justice is to assure that the needs and views of the public receive appropriate consideration in Departmental decisions affecting consumers. The Department of Justice, as the only Cabinet Department with direct litigative responsibility, serves consumer needs through litigation which benefits consumers. Although a significant portion of the Department's activities in the consumer field consists of legal representation of other executive agencies having primary consumer responsibility, the plan will provide the means for giving the management of the Department a better understanding of consumers' concerns and viewpoints with regard to the subjects of such litigation.

The plan will also facilitate consumers' and consumer groups' focusing their attention on issues of both special and general concern within the Department. It will demonstrate that legal remedies are available to deal with consumer concerns and will foster the development of a well-informed consumer constituency which will bring to our attention instances of possible consumer abuse.

II. EXECUTIVE SUMMARY AND IDENTIFICATION OF OPERATING UNITS INVOLVED

The Consumer Representation Plan of the Department of Justice is a series of complementary plans for a number of its major operating units. Each is aimed at assuring that the needs and views of the public are duly considered in Departmental decisions affecting consumers and at enhancing the mechanisms through which consumers are informed about Departmental activities.

Other units' activities also affect consumers through the Department's role as legal representative for its fellow executive agencies. However, because the primary decisions on policy matters affecting consumers in such instances are made by the client agency and not by the Department of Justice, those operating units are not discussed in this plan. It should be borne in mind that these units may have as substantial an effect on consumers as the primary operating units. The distinction has been predicated solely on where the policy determination is made and not on the potential impact on consumers.

The plan also includes designation of persons who will have consumer responsibility within the operating units; the exploration of means for increasing consumer input with regard to certain Departmental activities; and the improvement of the Department's consumer information system through issuance of consumer publications, increased use of the "Consumer Register," augmentation of the bilingual staff, wider dissemination of certain legal notices and announcements, and greater emphasis on topics of consumer concern in the National Criminal Justice Reference Service.

A. CONSUMER AFFAIRS ADVISOR

To assure maximum over-all coordination of its consumer efforts, the Department has recently established the position of Consumer Affairs Advisor within the Office of Policy and Planning in the Attorney General's Office. This will provide a mechanism by which all Department efforts in the consumer area can be coordinated and will serve as a focus for consumer-related concerns and initiatives within the Department.

B. UNITED STATES ATTORNEYS

The ninety-four United States Attorneys are the chief federal law enforcement officers within their districts. Because they are responsible for federal criminal and civil litigation within their districts, they are the principal Departmental point of contact with consumers. The plan outlines a model for a consumer affairs component within a United States Attorney's office. The model is comprised of the following elements: consumer protection designees; liaison with other consumer groups; concentrated enforcement efforts; coordination among investigative and regulatory agencies; coordination among United States Attorneys' offices; and public information.

C. ANTITRUST DIVISION

The Antitrust Division, by investigating and prosecuting antitrust violations, serves as an advocate for increased business competition. Since the purpose of antitrust litigation is the preservation or restoration of competition and the elimination of anticompetitive practices and structures from the market place, the successful conclusion of cases should benefit consumers through reduction of prices.

The Consumer Affairs Section of the Division is responsible for the institution of civil and criminal proceedings in cases referred to the Department of Justice by other agencies, such as the Food and Drug Administration and the Federal Trade Commission, which have primary responsibility for consumer protection activities.

D. CRIMINAL DIVISION

The Criminal Division coordinates the investigation and prosecution of the vast majority of violations of federal criminal laws. The Division also participates actively in the development and implementation of crime prevention programs, several of which relate directly or indirectly to consumers and their economic well-being. The Division will have a major responsibility for implementing the recommendations of the Department's White-Collar Crime Committee.

E. CIVIL RIGHTS DIVISION

The Civil Rights Division supervises the investigation and prosecution of the majority of federal civil rights cases. Regulatory authority over the civil rights aspects of various programs and activities is exercised primarily by other federal agencies, such as the Equal Employment Opportunity Commission; the Department of Health, Education and Welfare; the Department of Housing and Urban Development and the Office of Revenue Sharing. The Division will seek improved methods of informing citizens of their rights and remedies under federal law.

F. DRUG ENFORCEMENT ADMINISTRATION

The Drug Enforcement Administration is an enforcement and regulatory agency dealing with drug trafficking and the control of dangerous drugs. It has three main operating units pertinent to the plan: the Office of Public Affairs, the Compliance Investigations Division in the Office of Enforcement, and the Office of Science and Technology. Consideration will be given to several consumer-related actions, including the opening of advisory group meetings to consumer participation.

G. FEDERAL BUREAU OF INVESTIGATION

The Federal Bureau of Investigation deals both directly and indirectly with consumers, conducting a wide range of personal contacts, educational programs, and investigative operations. The purpose of the FBI portion of the plan is to enhance the flow of information from consumers and consumer representative groups.

H. LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

The Law Enforcement Assistance Administration provides grants, technical assistance, and research support for state and local programs to combat crime and to improve criminal justice agencies including more than four million dollars for consumer-related projects, such as the Economic Crime Project administered by the National District Attorneys Association, technical assistance to help implement such projects, and funds for consumer fraud research.

III. Department of Justice Plan

A. CONSUMER AFFAIRS ADVISOR

Policy development and program planning and evaluation with regard to consumer-related matters have been conducted primarily by the individual operating units of the Department under the supervision of the Attorney General and the Deputy Attorney General. To increase the Department's effectiveness in this area, the Attorney General has recently created the position of Consumer Affairs Advisor within the Office of Policy and Planning, a part of the office of the Attorney General.

The Consumer Affairs Advisor's responsibilities will include:

1. Assisting the Attorney General and the Deputy Attorney General in the development and coordination of all Departmental policies, procedures, and programs affecting consumers;

2. Serving as liaison with other federal, state, and local agencies, the activities of which affect consumers with regard to matters within the jurisdiction of the Department; and

3. Providing such additional support as may be necessary to insure proper consideration of the potential effect of Departmental activities on consumers.

The Consumer Affairs Advisor also will have responsibility for obtaining consumer views on matters pertaining to Departmental operations and for assuring appropriate response to consumer inquiries and complaints. Data pertaining to consumer matters come principally from complaints filed by consumers with the United States Attorneys' offices, the Federal Bureau of Investigation, Departmental divisions, and other Departmental units. Data are also obtained from other governmental and private agencies working in the consumer field and through the Department's own investigative efforts, as well as through the state criminal justice plans submitted to LEAA.

In addition, the Advisor will coordinate, and seek to improve, the information disseminated to consumers by the Department. That information is currently disseminated in four principal ways: (1) responses to consumer complaints; (2) general information supplied through the media about Departmental actions; (3) speeches and policy statements by Department representatives; and (4) consumer education programs.

The Advisor will assist in determining with other agencies the feasibility of the development among state and local governments of a national consumer complaint subject index and information system designed to provide rapid exchange of information concerning consumer problems.

Finally, the Advisor will work with designated persons in each of the operating units to implement other provisions of this plan.

B. UNITED STATES ATTORNEYS' OFFICES

This plan outlines a model consumer component within a United States Attorney's Office. The model includes the following elements: consumer protection designees; liaison with other consumer groups; concentrated enforcement efforts; coordination with investigative and regulatory agencies; and coordination among United States Attorney's Offices. The model recognizes that United States Attorneys, in exercising their jurisdiction, generally are limited to cases involving major schemes with broad public impact and to other cases involving related violations of a substantial nature.

Each United States Attorney should designate an Assistant United States Attorney to be responsible for all consumer protection matters. In smaller offices, this function may require only the part-time services of one attorney. In the larger offices, several Assistant United States Attorneys may be assigned to work on such matters. The persons selected for this assignment should have an overview of all consumer-related matters within the office; should be responsible for reviewing all consumer-oriented complaints and evaluating them for patterns of misconduct requiring enforcement action; and should work with the federal investigative agencies and other governmental and private groups having an interest in the consumer area to develop effective enforcement and prevention programs.

The consumer protection designee should be affiliated with the Federal Executive Board Community Consumer Council, if one has been established in his District. These councils were established by the Board with the goal of providing federal coordination for federal, state, local, and private consumer efforts within the districts.

The development of consumer protection designees within the United States Attorneys' offices can facilitate exchanges of information, as well as cooperative case efforts, among the several offices. Many of the consumer problems addressed on a federal level, particularly large-scale frauds, overlap district boundaries and require sophisticated coordination. Development of consumer specialists within each office will make this coordination more effective.

Consumer-related enforcement efforts should encompass both criminal prosecution and civil litigation in the areas of frauds against the public, frauds against the government, frauds within the business community, and regulatory violations. In addition, although there is presently no specific statute authorizing the government to sue on behalf of a consumer, or class of consumers, to recover monies lost due to a violation of federal law, United States Attorneys' offices, where appropriate, should assist in securing restitution for victims through plea negotiation, allocution at sentencing, and referral to state and local consumer agencies with powers to require restitution. While there is no general statute authorizing injunctive action to prohibit further violations of federal law, United States Attorneys' offices should, where appropriate, proceed with the injunctive process in consumer-related cases if specific statutory authorization permits (such as in FDA and postal matters) or if supportable under controlling case law.

C. ANTITRUST DIVISION

The primary responsibility of the Antitrust Division is to promote the basic economic policy of the United States, i.e., that competition tends to produce better goods and services at lower prices, to create more flexible market conditions, and to encourage a higher rate of innovation. In order to maintain these economic values, the Division enforces the Sherman and Clayton Acts; argues the competitive viewpoint in regulatory proceedings involving transportation, energy, communications, securities, and banking; and supervises litigation under such consumer protection statutes as the Federal Food, Drug, and Cosmetic Act, the Hazardous Substances Act, the Federal Trade Commission Act, the Fair Credit Reporting Act, the Consumer Product Safety Act, and the Truth in Lending Act.

The Division's plan seeks to encourage the formation of an active and well educated consumer/antitrust constituency, and to develop a program for increased participation by consumers in the Division's activities. The Division has designated the Chief of its Consumer Affairs Section to coordinate the Division's activities with the Department's Consumer Affairs Advisor and other entities concerned with consumer representation. The Division also has recently increased its staff to ensure more prompt and effective responses to individual complaints and inquiries.

Speeches, press releases, correspondence, and public conferences are the mainstay of the Division's efforts to inform the public of its policies and activities. Increased efforts are underway to improve this function.

The Division recently released its first publication on antitrust enforcement designed specifically for consumer education, a pamphlet entitled *Antritrust Enforcement and the Consumer*. It is available without cost from the Division's Consumer Affairs Section. The pamphlet describes the antitrust laws from a consumer viewpoint, discusses potential violations which consumers may encounter, and tells how

and where consumers may contact antitrust enforcement authorities.

Press releases are prepared and disseminated by the Division when enforcement actions are filed, when settlements are proposed, and when important regulatory agency filings are submitted. Speeches and Congressional testimony by Division officials are also released in their entirety. A conscious effort will be made to write releases in non-technical language, and the Division will place more emphasis on the consumer impact of antitrust enforcement activities.

Under the Antitrust Procedures and Penalties Act, which became effective in June 1975, the Division prepares a competitive impact statement designed to provide information concerning the anticipated impact of every proposed settlement of an antitrust enforcement lawsuit. A summary of the terms of the settlement, a summary of the competitive impact statement, and a list of the materials and documents available for public examination are published in the FEDERAL REGISTER and in newspapers of general circulation both in the locality of the lawsuit and in Washington, D.C.

This procedure provides an opportunity for consumers who may be affected by the judgment to make comments before the court approves the settlement. If the comments submitted disclose facts or considerations which indicate that the proposed settlement is inappropriate or inadequate, the Department of Justice may withdraw the settlement.

Some antitrust lawsuits, particularly those involving basic consumer commodities, generate considerable consumer interest. In such cases, the Division will submit the summaries to the Office of Consumer Affairs "Consumer Register" in addition to the FEDERAL REGISTER and the newspapers in Washington and in the locality of the lawsuit. Responses from consumer organizations will be encouraged.

In legal proceedings before regulatory agencies, the Division submits and argues its analysis of the competitive impact of proposed regulations. In cases of major interest to consumers, a summary of the position advocated by the Division and the supporting legal documents will be released to the press and to the "Consumer Register."

D. CRIMINAL DIVISION

The Criminal Division oversees the enforcement of all federal criminal laws, except those specifically assigned to other divisions of the Department. Accordingly, a significant portion of the Division's work has an impact on consumer interests.

The Division has ten operating sections, four of which have a direct impact on consumers. The Fraud Section, through the operations of a consumer fraud unit, continues to oversee the enforcement of a variety of fraud-related statutes. The General Crimes Section is charged with supervision of the enforcement of statutes relating to the channels of interstate commerce, and various other matters indirectly affecting consumers. The Government Regulations and Labor Section oversees litigation to enforce criminal and civil sanctions under a wide variety of statutes providing for the regulation of working conditions, food production, and public transportation and communication. The Narcotic and Dangerous Drug Section oversees litigation arising out of federal laws pertaining to controlled substances.

As part of its consumer effort the Division will have principal responsibility for implementing the proposals of the Department's White-Collar Crime Committee. These proposals include major anti-fraud efforts in such areas as land transactions and government programs.

The Division currently is participating with other agencies in programs designed to stimulate community involvement and participation in crime prevention programs. These programs include the Interagency Committee on Auto-Theft Prevention, the Interagency Committee on Cargo Security, the Federal-State Law Enforcement Committee, and the Federal Advisory Committee on False Identification.

The Criminal Division, as part of its consumer effort, has suggested a number of legislative changes aimed at further protecting consumers. Among other things, the proposed Federal Criminal Code (S.1 and H.R. 3907, 94th Cong., 1st Sess.) includes, at the suggestion of the Division, a careful delineation of the criminal liability of a corporation for the conduct of its agents as well as a clear statement of the criminal liability of an agent for the acts of a corporation; an injunctive relief provision to halt fraudulent activities when they are discovered; a provision to make pyramid sales schemes illegal; increased penalties for large-scale theft, embezzlement, and fraud offenses; offenses to help reduce the trafficking in forged, counterfeit, or stolen securities; and a new felony statute punishing violations of health, pollution, and other regulatory laws that may endanger lives. In order to facilitate restitution to victims of criminal offenses, the proposed code contains a requirement that a person found guilty of an offense involving fraudulent practices, or a corporation found guilty of any kind of offense, may be required to give notice of the conviction to all the persons who may have been victimized by the offense. In addition, the code includes a general tenfold increase in corporate and individual fine limits—as well as a potential maximum fine of double the gain realized or the loss caused by any criminal activity—in order to deter willful violation of the existing regulatory statutes by raising the penalty level so that the fines available will not be viewed simply as a minor "cost of doing business."

E. CIVIL RIGHTS DIVISION

The Civil Rights Division has the primary responsibility for enforcement of the majority of federal civil rights laws, which apply to a broad range of activities in which consumers participate. The Division is divided into ten operating sections, three of which—the Housing Section, the Public Accommodations and Facilities Section, and the Federal Programs Section—have a special significance to consumers. These Sections enforce statutes prohibiting discrimination in housing; in credit transactions; and in the operation of restaurants, hotels, places of entertainment, recreation areas, hospitals, and penal institutions.

All Sections respond to, and meet with, citizens who bring civil rights complaints to the Department. When complaints are beyond the scope of the Division's authority an effort is made to direct the complainant to the most appropriate private or governmental source of assistance. Although the Civil Rights Division processes thousands of civil rights complaints each year, it continues to seek improved methods of informing citizens of their rights and remedies under federal law. In addition to providing information, the Division routinely invites public comment on all proposed regulations or guidelines dealing with enforcement of civil rights laws. The Division is also seeking to increase its bilingual staff, so as to be able to respond more effectively to persons who do not speak English.

In continuing its efforts to keep the public informed about federal civil rights protections and remedies, the Division expects to publish a short, yet comprehensive, pamphlet describing the federal civil rights laws enforced by the Division, complaint procedures, and enforcement mechanisms available. The pamphlets will be enclosed in responses to citizen complaints and distributed on a wide scale to such places as United States Attorneys' Offices and civil rights organizations.

F. DRUG ENFORCEMENT ADMINISTRATION

The purpose of the Drug Enforcement Administration (DEA) is to protect the health and safety of the general public by enforcing the Controlled Substances Act of 1970 (CSA–1970). That Act provides authority to control and regulate narcotics and dangerous drugs and to limit the availability of substances controlled by the Act. While the general public is indirectly affected by most of DEA's activities, groups such as physicians, pharmacists, veterinarians, dentists, drug wholesalers, and manufacturers are directly affected.

DEA's public information and education programs reach many people through the dissemination of information on drugs, drug abuse, and the drug problem. In addition, consideration will be given to the following administrative and procedural actions:

1. Coordination of responses to consumer-related inquiries through the Office of Public Affairs and an inter-office coordinating committee;
2. Opening of advisory group meetings to the news media and to concerned organizations outside the registrant field;
3. Improving FEDERAL REGISTER announcement procedures and dissemination of prehearing announcements, information on hearings, and releases explaining and clarifying technical language;
4. Issuance of guidelines to DEA regional offices regarding the need for coordination of information on consumer-related issues; and

5. Contacting consumer groups to determine their interest in attending registrant committee meetings or state registrant conferences.

G. FEDERAL BUREAU OF INVESTIGATION

The FBI serves consumers by investigating criminal violations and civil matters and by providing a wide range of services to private citizens, businesses, and other federal, state, and local agencies. The FBI will coordinate a four-pronged white-collar crime program consisting of research, intensified investigation, development of public awareness of the problems, and training. White-collar crimes include such offenses as bank fraud and embezzlement, bribery, antitrust violations, federal housing frauds, fraud against the government, copyright infringement, public corruption, and Hobbs Act violations. According to the United States Chamber of Commerce, white-collar crime costs citizens approximately $40 billion yearly.

Through the services of the Inspection Division and the Office of Planning and Evaluation, the FBI will continue to analyze the FBI's operations and policies on a regular basis to insure that consumer interests receive appropriate attention. Also, the FBI will continue to utilize its mechanisms for receiving and processing information from consumers and will pursue efforts to insure that consumers are aware of the FBI's services.

H. LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

LEAA's goal in the consumer area is to reduce consumer losses caused by a variety of crimes. LEAA intends to increase funding for consumer programs through its grants to state and regional criminal justice planning agencies. The consumer representatives on these planning agencies will identify state and local problems relating to consumers and will recommend ways to improve enforcement efforts.

LEAA has awarded grants totaling $2.7 million to fund programs devoted exclusively to economic crime. Six more grants totaling $1.2 million are being processed to combat major consumer frauds, antitrust activities, and economic conspiracies. The Economic Crime Project of the National District Attorneys Association covers a variety of offenses—including land fraud, warranty offenses, and auto repair swindles. It directly involves 15 district attorneys' offices across the country and indirectly involves some 30 others. They investigate economic crime and distribute information to other law enforcement agencies and the public through an information clearinghouse.

LEAA is expanding its consumer research to provide more effective strategies, policies, and programs for preventing and controlling various offenses. Current research projects address problems involving consumer fraud, computer abuse, and corruption in licensing and regulatory agencies.

A major LEAA service that aids the flow of information to the consumer is the National Criminal Justice Reference Service (NCJRS). This centralized, automated reference service contains information on more than 14,000 documents, and currently serves more than 38,000 registered users. Any person or organization with a need for reference information pertaining to law enforcement and criminal justice may use NCJRS without cost. Among the information services of the NCJRS are general reference and information services as well as a system to provide the public with information on selected topics.

To expand consumer services, NCJRS intends to:

1. Acquire informational materials related to consumer protection and place it in the automated data base;

2. Increase contacts with consumer-oriented groups and organizations and encourage the exchange of information;

3. Urge prospective users of consumer-related criminal justice information to register with NCJRS;

4. Develop special mailing lists from current files for selected document mailings; and

5. Announce pertinent consumer protection related documents and activities through the existing NCJRS selective notification program.

A grant to the National Association of Attorneys General will create a national clearinghouse to alert all states when special problems arise with regard to antitrust and consumer protection matters. In addition, the clearinghouse will disseminate information on such matters through a monthly newsletter and research reports. Two consumer protection seminars, five regional antitrust seminars, and a national meeting of the Association's Antitrust Committee will also be funded.

IV. EFFECTIVE DATE

This plan will take effect immediately.

APPENDIX A.—PUBLIC COMMENT

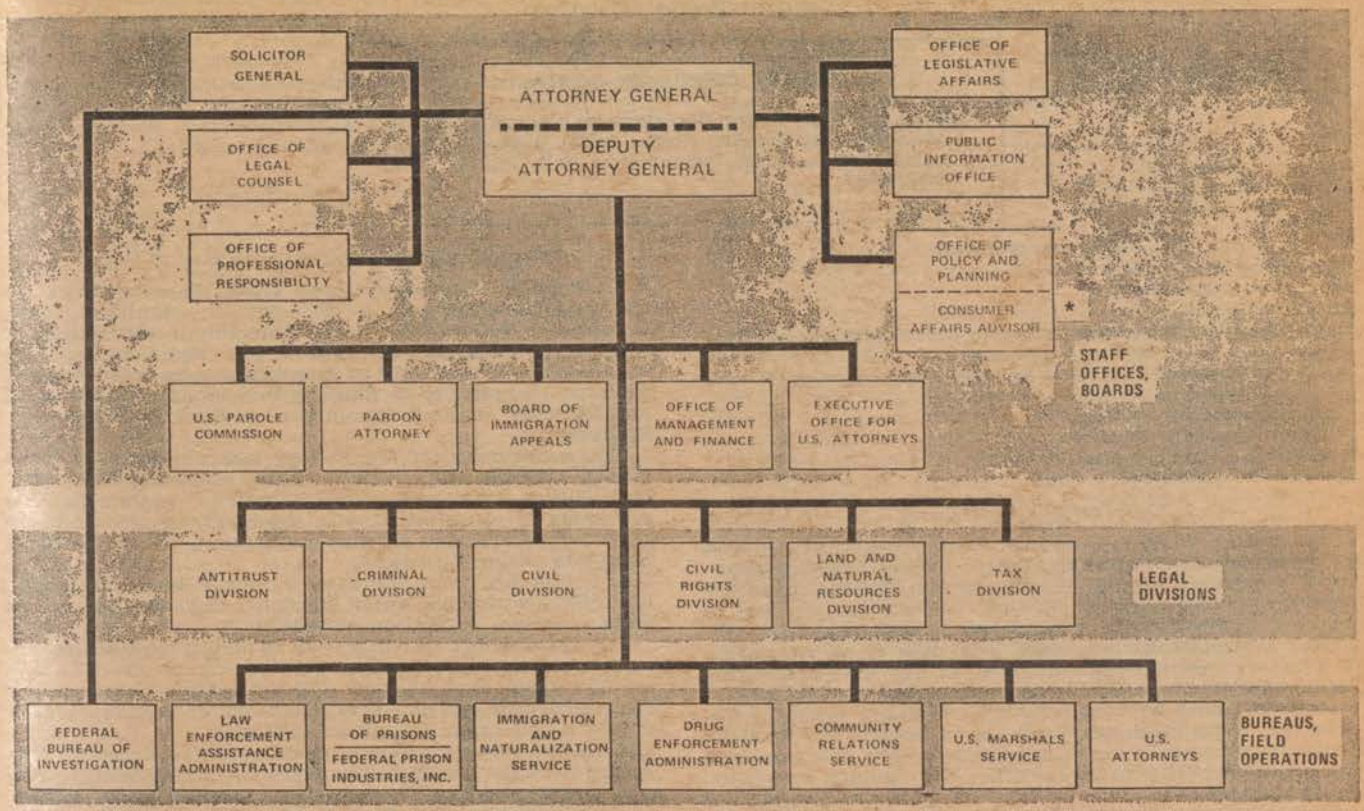
This revised Consumer Representation Plan of the Department of Justice reflects the oral comments and suggestions received during the White House Consumer Representation Plan Conferences held in nine cities throughout the country during January, 1976; those received in writing during the comment period which closed March 1, 1976; and testimony presented at a hearing held at the Department of Justice on February 23, 1976.

Several specific sugegstions have been incorporated into the Plan. They include: (1) inclusion of a consumer representation plan for the Civil Rights Division; and (2) an increase in staffing in the Consumer Affairs Section of the Antitrust Division.

Many comments addressed initiatives first outlined in the proposed Plan. An effort has been made to state more clearly the goals and operation of these initiatives, including development of mechanisms to handle consumer complaints and inquiries, designation of consumer liaison personnel, and development and dissemination of consumer-related information about the Department and its operations.

Other written comments suggested the inclusion of the Civil Division in the Plan and the establishment of a consumer information training program for Department employees. As explained in the Plan, the Civil Division is excluded because its sole role is as legal representative for other agencies. The Consumer Affairs Advisor will explore with the operating units of the Department the benefits of undertaking a program of consumer relations training.

APPENDIX B



* PRIMARY CONSUMER CONTACT

DEPARTMENT OF THE TREASURY

Consumer Representation Plan

PRIMARY CONSUMER CONTACT

Special Assistant to the Secretary for Consumer Affairs, Main Treasury Building (Room 1454), 15th & Pennsylvania Avenue, N.W., Washington, D.C. 20220 (202) 964–5487.

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I. STATEMENT OF PURPOSE

The purpose of this Consumer Representation Plan is to insure that persons who are affected by any Treasury-sponsored legislation, regulation, or program decision have the opportunity to present their views on the subject, and to insure that these views are duly considered in the Department's decisionmaking process. The plan is an expression of Treasury's commitment to more actively solicit consumer opinion and to make the bureaus and offices more responsive to the consumer without creating additional layers of bureaucracy. The machinery and the techniques for assuring consumer representation already exist within Treasury, and the plan's purpose is to see that they are regularly and effectively applied.

II. EXECUTIVE SUMMARY

In order to develop an effective plan, we first examined current consumer representation in Treasury. Case histories of decisions made in Treasury during 1974–75 were reviewed to determine the effectiveness of representation and extent of consumer participation. From this examination, three principal recommendations were made:

A. Designation of the position of Special Assistant to the Secretary (Consumer Affairs) as a coordinator of a Treasury-wide consumer representation effort.

B. Establishment of a monitoring system to insure timely solicitation and use of consumer views. Each bureau and office shall have a contact person familiar with the structure and detail of the consumer effort within that organization. Current lines of authority from the Secretary to bureaus and offices shall be maintained. Bureau and office heads are charged with the responsibility of insuring that their organization complies with the spirit of this plan. The Special Assistant to the Secretary (Consumer Affairs) is available to advise on the development of a consumer representation effort within those organizations. The Special Assistant shall keep the Secretary apprised as to the status of the Department-wide effort.

C. Issuance by the Secretary of guidelines for all Treasury program managers to follow in planning and evaluation of their programs in order to obtain and make use of consumer views.

III. PLAN

Consumers of Treasury Department services and products fall into many categories: taxpayers, travelers, bondholders, welfare recipients, and many others. As defined for the purposes of this plan, a consumer is the final recipient of our product or service as an individual, not as an organization or intermediary.

Consumer participation in the decisionmaking process occurs in two complementary phases: the flow of comments and complaints from consumers, and the flow of information from the Department. Comments of consumers, solicited or unsolicited, are directed toward existing programs or planned programs. Information from Treasury is designed to inform or reply to consumers.

A. CONSUMERS' VIEWS: SOURCES NOW IN USE

1. *Advisory committees* range from the Secretary's advisory committees (four), to IRS advisory committees (four), to advisory committees to the Director of the Bureau of Alcohol, Tobacco and Firearms (two). The Comptroller of the Currency is also in the process of rechartering 14 Regional Advisory Committees on Banking Policies and Practices and one National Advisory Committee on Banking Policies and Practices.

The membership of the present committees shall be reviewed with the objective of securing consumer representation. This review process is the responsibility of the committee managers in consultation with the Special Assistant to the Secretary (Consumer Affairs) with review by the Assistant Secretary (Administration).

2. *Public hearings* are used currently by most bureaus and offices when substantial consumer impact is anticipated from a decision, regulation, or legislation.

Full use of public hearings shall be maintained. Where consumer participation appears limited, direct solicitation of opinion shall be employed. Use of evening hearings and regional hearings away from Washington is encouraged to obtain a full range of opinion on issues.

3. *Public interest groups* have been only moderately represented in public hearings. Since they do provide a unique consumer viewpoint in addition to direct consumer participation, they shall be consulted. State and local government consumer offices can add depth to the diversity of opinion needed on consumer issues. Solicitation of comments from these groups is encouraged. Mailing labels for these groups can be obtained from the Special Assistant to the Secretary (Consumer Affairs).

4. *Consumer correspondence and complaints:* The accountability system for consumer inquiries and complaints will insure that consumers receive prompt responses.

5. *Digests of consumer publications:* Publications by the major consumer groups are not widely used in Treasury. Bureaus and offices are urged to actively solicit consumer views from these sources.

6. *Responses to media announcements:* Notices of proposed rulemaking and of public hearings, published in the FEDERAL REGISTER, and announcements of actions soliciting comments have, in the past, evoked minimal response from the general public. The circulation of the FEDERAL REGISTER is primarily to businesses and special interest groups (60 percent of total circulation), and the format and wording in the FEDERAL REGISTER are difficult for the layman. For this reason, the Consumer Representation Plan for Treasury will insure that concurrent press releases will be distributed to the media.

7. *Public opinion surveys* have been used by the IRS in evaluating its taxpayer service program. This plan requires bureaus and offices to use public opinion surveys when other methods provide inadequate participation. Preparation of a questionnaire and addressee determination shall be coordinated with the Special Assistant to the Secretary (Consumer Affairs).

Our study shows that every technique and method of soliciting consumer views is used somewhere in Treasury, but all techniques are not used at any one bureau or office. This plan creates a monitoring apparatus in the Office of the Secretary and in the bureaus to insure that these known techniques are more widely used and that the results are weighed in the decision-making process.

B. INFORMATION FROM TREASURY

Information issuing from Treasury is the other half of the cycle between Treasury and consumer. Each of the techniques listed in III–A has a secondary effect of informing the public. The information programs and responses to consumer inquiries described below serve, in turn, to stimulate further dialogue between consumer and Treasury.

Information techniques fall into three categories:

1. *General publicity:* press releases, speeches, publications in the FEDERAL REGISTER, news media coverage.

Press releases are generated by each bureau. In the past, there has been a problem in getting news articles published. This is especially true in the more technical areas. More success has been realized by releasing feature articles to the media. Bureau and office heads shall explore this area more thoroughly. Consumer advantages shall be spelled out in the articles.

While it is realized that many technical areas are covered in the FEDERAL REGISTER, a lead paragraph, written in news style, summarizing the article content shall precede the main announcement. If the FEDERAL REGISTER is to be used to solicit consumer participation and media coverage, we must make information more readily decipherable and easier to use. In addition, a news release shall be prepared in conjunction with submission of items for the FEDERAL REGISTER. Included in the news release will be an address and phone number to which interested parties may respond.

Speeches by Treasury officials offer the best means of media coverage.

Consumer education is employed by many units of Treasury. IRS conducts tax courses for specific groups of taxpayers, such as small business associations, or for people who have suffered losses in natural disasters. The Secret Service conducts classes in the detection of counterfeit currency and how to safeguard against check and bond forgery. These types of educational activities are strongly encouraged. Treasury officials at all levels shall also actively make themselves available as speakers to local groups in order to further the educational goals of the Department with regard to consumers.

2. *Group-specific output* to consumer groups and special interest groups. Many special interest groups request that they be placed on the mailing list of various bureaus and offices. This is encouraged. Moreover, the same type of relationship is encouraged with public interest and consumer groups. Lists of these groups are available from the Special Assistant to the Secretary (Consumer Affairs). Reciprocal exchange of ideas and views is also strongly encouraged.

3. *Individual responses* to consumers making complaints or requesting information. Most written items are answered in writing, though whenever possible, the individual should be phoned. The personal touch and faster response time, plus the resulting contact with the public, will reduce bureaucratic insulation. We are in a service business and our responses should serve our public quickly and efficiently. A written log of telephoned responses shall be maintained.

C. DEPARTMENTAL ACTIONS

1. Establishment of the position of Special Assistant to the Secretary (Consumer Affairs). This action was completed in August 1975.

The Special Assistant is a senior level advisor for consumer matters for the Secretary and Deputy Secretary of the Treasury. The incumbent shall help achieve a flow of concerns and ideas between the consumer and the Treasury and shall work to inform the public as to what the Treasury is doing to help the consumer.

Specific responsibilities for the Special Assistant to the Secretary (Consumer Affairs) include:

(a) *Insure appropriate consumer input.* (1) Review proposed legislation for possible consumer-related improvements.

(2) Encourage or initiate public discussions on Treasury-related matters (e.g., hearings on proposed rules, conferences on legislation, etc.).

(3) Monitor consumer comments and complaints into the Department and the various bureaus.

(4) Review procedures in the bureaus and agencies with the idea of making it easier for consumers to penetrate the bureaucracy.

(5) Advise Treasury officials concerning consumer goals within their respective areas, and recommend Departmental policy to the Secretary.

(b) *Inform public of Treasury actions and programs beneficial to the consumer.* (1) Review speeches and press releases to encourage more consumer-related content.

(2) Work with the Office of Public Affairs to identify and publicize consumer programs in the Treasury.

(3) Sample consumer correspondence to maintain appropriate consumer "sensitivity."

(c) *Work within the Department to improve consumer services.* (1) Serve as a consultant to senior officials to assist them in improving consumer programs.

(2) Serve as a consultant to the various bureaus and agencies to help improve their relationships with the consumer.

(3) Discern trends which are adverse to the consumer and act as a troubleshooter.

2. Establishment of a monitoring system to insure timely solicitation and use of consumer views, and to assure compliance with the following guidelines issued by the Secretary of the Treasury:

Each bureau and office that has consumer impact shall designate a contact person within the organization to act in the capacity of consumer representative. This person shall be thoroughly familiar with the organization and be at a level that insures a complete overview of consumer contact. In addition, the consumer representatives shall coordinate their activities with the Special Assistant to the Secretary (Consumer Affairs).

All bureaus and offices shall insure that a balanced viewpoint is obtained when considering legislation, regulations or administrative decisions affecting consumers. In the absence of voluntary participation by any specifically affected group, direct solicitation of that group shall be employed. The techniques of soliciting consumer views are outlined in the Departmental plan.

Contact with consumers by Department, bureau and office officials is strongly urged.

When public meetings, hearings, or briefings are scheduled outside the District of Columbia, the sponsoring bureau or office shall, as a matter of courtesy, notify the two Senators from that State and the Representative from the district in which the meeting is scheduled.

Consumer complaint handling is to be used as a policy initiator. Toward that end, bureaus and offices shall regularly tabulate and analyze complaints and suggestions for use by decisionmakers in formulating or altering policies.

Provision shall be made for identification and use of bilingual employees of the Treasury in handling comments and complaints of non-English-speaking consumers.

D. ALLOCATION OF RESOURCES

It is anticipated that no additional personnel or funds will be required to implement the Consumer Representation Plan and guidelines. Current lines of authority shall be maintained. The Special Assistant to the Secretary (Consumer Affairs) shall coordinate the implementation of this plan with bureaus and offices.

APPENDIX A.—PUBLIC COMMENTS ON TREASURY'S PROPOSED CONSUMER REPRESENTATION PLAN

The November 26, 1975, FEDERAL REGISTER solicited comments on the proposed Consumer Representation Plan of the Treasury. In addition, nine White House regional conferences on consumer representation were held during January 1976. Comments have been taken into consideration from the public, from consumer groups, from special interest groups, and from participants in the regional conferences. Many of the suggestions of those groups are incorporated in the revised Consumer Representation Plan.

The consumer groups responding universally recommended the creation of a separate agency for consumer protection. The commitment of this plan is to implement effective consumer representation.

Several written comments said that the plan lacked commitment. The plan has been revised to more accurately reflect the commitment of the Department.

One criticism of the plan was that the Special Assistant to the Secretary could not argue consumer interests before policymakers in the Department. This is not the case. The person appointed as Special Assistant is and will be an advocate of consumer interests and argue those interests forcibly before decisionmakers.

Another criticism of the plan was that it provides consumers no legal right of redress with regard to Departmental decisions; however, the Administrative Procedures Act provides such redress.

One complaint stated that the Office of Revenue Sharing was not included in the plan and should be. This has been remedied and all bureaus and offices within Treasury are now covered by the plan.

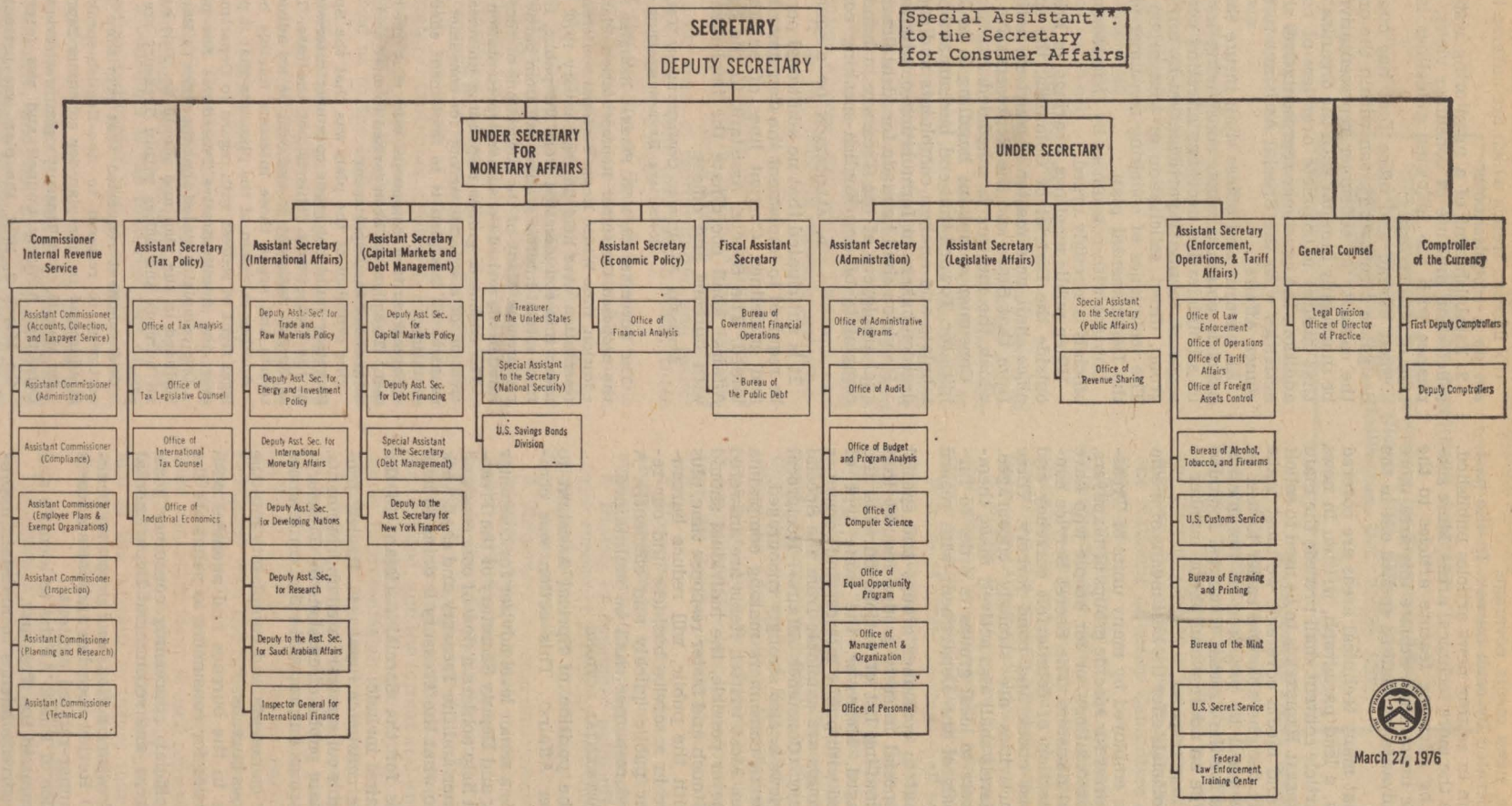
One comment requested that provisions be made for the Department to respond to non-English-speaking consumers. This is addressed in our plan for consumer representation.

On May 25, 1976, Treasury's plan was reviewed by the President's Consumer Advisory Council and was favorably received.

On March 2, 1976, the plan was presented before Chairman Rosenthal's Subcommittee on Commerce, Consumer, and Monetary Affairs. There were no comments on the plan.

Finally, more effort has been made in defining how consumer representation will be effected.

ORGANIZATION OF THE DEPARTMENT OF THE TREASURY



March 27, 1976

** Primary Consumer Contact

APPENDIX B

GENERAL SERVICES ADMINISTRATION

Consumer Representation Plan

PRIMARY CONSUMER CONTACT

Director of Consumer Affairs, General Services Administration, Washington, D.C. 20405 (202) 556–1794.

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I. STATEMENT OF PURPOSE

The purpose of the Consumer Representation Plan is to insure that persons who may be affected by GSA policies, decisions, and programs have the means to make their views heard and that these views are given full consideration in the agency's decision-making process. The plan outlines improvements in four consumer areas to be coordinated by the Director of Consumer Affairs. These improvements will increase consumer responsiveness within GSA.

II. EXECUTIVE SUMMARY

The General Services Administration's Consumer Representation Plan includes agency-wide actions and improvements in four individual consumer-related programs. The Administrator of GSA will establish a Consumer Advisory Council and has appointed a Director of Consumer Affairs to implement the Consumer Representation Plan and to coordinate consumer activities within GSA. In program improvements, the Office of the Federal Register will require explanatory statements for all important FEDERAL REGISTER documents; publish a weekly digest of explanatory statements; offer workshops and educational kits to help consumers use the FEDERAL REGISTER more fully; and collaborate with the Department of Health, Education, and Welfare on a model project to rewrite a portion of the CODE OF FEDERAL REGULATIONS. The Regulatory Law Division in the Office of General Counsel will publish a notice of intervention in the FEDERAL REGISTER when it intends to enter a public utility case on behalf of the Federal Government. The Consumer Information Center will increase the number of reader surveys and conduct nationwide public opinion research to obtain a clearer picture of the public's current interest in specific consumer topics. The Federal Information Centers will conduct an annual public service campaign, initiate a continuing community liaison activity, create a national liaison program with Federal agencies, and explore various means to provide Federal Information Center services to the broadest possible audience.

III. PRIMARY ORGANIZATIONS INVOLVED

The General Services Administration is the Federal Government's business manager. Acting in this capacity for other Federal agencies, GSA establishes policy and provides services such as: management of Federal property and records; construction and operation of buildings; procurement and distribution of supplies; utilization and disposal of property; transportation, traffic, and communications management; stockpiling of strategic materials; and management of the Government-wide automated data processing resources program. An organization chart is attached (see Appendix B) with more specific information on the basic support functions of GSA. For the most part, GSA programs are designed to assist other Federal agencies. However, there are four specific operations that have a significant direct impact on consumers. These are the programs of the Office of the Federal Register in the National Archives and Records Service, the Regulatory Law Division in the Office of General Counsel, the Consumer Information Center in the Division of Consumer Affairs, and the Federal Information Centers in the Division of Public Services. The GSA Consumer Representation Plan concentrates on strengthening these programs through specific changes, improvements, and additions that will make them and GSA more responsive to consumers.

IV. AGENCY PLAN

AGENCY-WIDE ACTIONS

To reflect the interests and the needs of consumers the Administrator of GSA will establish a Consumer Advisory Council. In addition, due to the diverse nature of consumer-related activities within the purview of the General Services Administration such as the Office of the Federal Register, the Regulatory Law Division in the Office of General Counsel, the Consumer Information Center, the Federal Information Centers, and others as may be identified, a Director of Consumer Affairs has been appointed.

The Director will:

(1) Implement the Consumer Representation Plan and coordinate consumer activities within GSA;

(2) Solicit consumer comments on GSA activities;

(3) Provide recommendations on consumer policy issues to the Administrator for appropriate attention and consideration;

(4) Convey approved GSA policy and comments on Federal consumer programs and issues; and

(5) Represent the Administrator in specific areas and duties as may be assigned.

Timetable: A Director of Consumer Affairs was appointed in January 1976.

OFFICE OF THE FEDERAL REGISTER

Through the Office of the Federal Register in the National Archives and Records Services, the GSA issues several publications that inform consumers of the workings of their Government. Among these are the U.S. GOVERNMENT MANUAL, the CODE OF FEDERAL REGULATIONS, and the FEDERAL REGISTER. The FEDERAL REGISTER is of particular importance to consumers because it is the only publication that covers all proposed Federal regulations and tells consumers how, when and where to express their viewpoints.

In reality, however, the FEDERAL REGISTER has been of little practical use to consumers. Rules and regulations published in the FEDERAL REGISTER are difficult to understand and often defy accurate interpretation. Further, the time and effort currently required to read and interpret the documents in the FEDERAL REGISTER discourage the media from reporting on proposed rules or hearings that would be of interest to consumers. The result is that consumers often do not know what is going on in their Government or how.

Although GSA publishes the FEDERAL REGISTER, it does not have the legal authority to control or rewrite the substance of material received from Federal agencies. Nevertheless GSA will take the following steps to make the regulations and notices in the FEDERAL REGISTER more understandable and useful to the consumer:

1. *Opening Explanatory Statements.* GSA will require that each important FEDERAL REGISTER document (all rules, proposed rules, and general notice documents that have significant public importance) contain a brief opening statement that describes the importance of the document in language that can be understood by the layperson. There will be no lengthy citation of statutory authority or legalistic statements in these paragraphs.

Each opening explanatory statement will contain the following elements:

a. The name of the issuing agency;
b. Whether the document is a proposed rule, final rule or notice;
c. A description of what the document is doing or proposing to do;
d. Why this action is being taken; and
e. Any relevant dates (closing date for comments, hearing dates, effective date) and an address to which comments should be sent.

GSA also will strongly urge agencies to include in the opening explanatory statement the name, address, and phone number of an individual to whom questions concerning the document should be addressed.

Timetable: Opening explanatory statements on all applicable documents will be required by January 31, 1977.

2. *Digest of Explanatory Statements.* To provide the general public with a practical means of keeping informed of significant documents in the FEDERAL REGISTER, GSA will publish a weekly digest including the opening explanatory statements of all rules, proposed rules, and significant notice documents. The weekly digest will also include a reminder list of upcoming comments, deadlines, hearings, and meetings. Available as a separate publication from the FEDERAL REGISTER, the digest will be an especially useful tool for individual consumers and for interested organizations. Further, the digest format should make it easier for the media to report on significant FEDERAL REGISTER documents.

Timetable: Publication of the digest will begin by June 30, 1977.

3. *Use of the* FEDERAL REGISTER. In addition to being the daily newspaper of the Federal Government, the FEDERAL REGISTER is also a valuable reference tool. However, even many regular readers are not fully aware of the ways to utilize the FEDERAL REGISTER either on a daily basis or as a reference document. To help rectify this situation, GSA is undertaking the following:

a. Educational Workshops. The purpose of the workshops is to help the public better use and understand the FEDERAL REGISTER as well as to seek suggestions on ways to improve it. These workshops are being held regionally and at the Office of the Federal Register in Washington, D.C. (For information call (202) 523-5240).

Timetable: The workshops began in January 1976.

b. Educational Kit. GSA has developed a packet of materials containing all the main elements of the educational workshops. For those persons unable to attend the workshops, the kit provides guidelines for fully utilizing the FEDERAL REGISTER. (For copies of the free educational kit, write to the Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408).

Timetable: The educational kit has been available since July 1, 1976.

4. *Model Regulations Project.* In cooperation with the Department of Health, Education, and Welfare, GSA has begun work on a model project to rewrite a portion of DHEW regulations contained in the CODE OF FEDERAL REGULATIONS. The purpose of this project is to demonstrate that it is possible to write regulations that are understandable to the consumer and that meet Congressional intent and legal requirements. The techniques developed in this project will be explained and demonstrated to other agencies for their use in writing new or rewriting existing regulations. This project is a first step toward the ultimate goal of a complete rewriting of the CODE OF FEDERAL REGULATIONS to make it more understandable to the layperson.

Timetable: The model project has been started and will be completed by July 1, 1977.

REGULATORY LAW DIVISION

The Regulatory Law Division in the Office of General Counsel represents Federal executive agencies in certain state and Federal public utility cases. However, intervention by the General Services Administration is limited by law solely to those cases where utility rates or supply have a significant impact on the Federal Government as a user of utilities. As one of the larger purchasers of electric, gas, telephone, and transportation services in the country, GSA is involved itself, or through delegations to other agencies, in approximately 300 such cases annually.

In the past there has been no mechanism for alerting the public of GSA's intention to intervene in a specific case, and there have been few cooperative efforts between GSA and other interested consumers. Accordingly, GSA will take the following actions to inform consumer groups and the general public of GSA's proposed involvement in utility cases:

Notice of Intervention. GSA will publish advance notice in the FEDERAL REGISTER and the digest of explanatory statements of its intention to intervene in public utility cases. The notice will contain the following information:

a. The public service commission conducting the hearing;
b. The utility company involved;
c. The case number;
d. The proposed rate increase; and
e. The name, address, and telephone number to contact with inquiries and for information.

Timetable: The policy of publishing notices in the FEDERAL REGISTER became effective July 1, 1976. Digest notices will begin upon publication of the digest, scheduled for no later than June 30, 1977.

CONSUMER INFORMATION CENTER

The Consumer Information Center, established by Executive Order in 1970, has two basic responsibilities: (1) to encourage Federal departments and agencies to develop and release relevant and meaningful consumer information; and (2) to increase public awareness of and provide maximum accessibility to Federal consumer information.

Located in GSA, the Center receives policy guidance from the President's Special Assistant for Consumer Affairs. Through various means the Center seeks to determine what information consumers want. Then, through an active liaison effort with more than two dozen Federal agencies, the Center suggests and assists with the development of new consumer publications. Each quarter, approximately 250 of the best of these booklets are listed in the free catalog, CONSUMER INFORMATION, which is widely distributed to the general public. During FY 1976 the Center's distribution facility in Pueblo, Colorado, filled individual requests for aproximately 10 million publications. Through the cooperation of the media, the Center also makes consumer information directly available to citizens through newspaper articles, and radio and television announcements.

Because accurately assessing current consumer problems and information needs is fundamental to the effectiveness of the Center's program, the GSA Consumer Representation Plan includes two specific actions to strengthen this effort by giving the public more opportunities to express their opinions on consumer information:

1. *Reader Surveys.* The Center will increase the frequency and the scope of surveys of consumers who have ordered publications listed in CONSUMER INFORMATION. The surveys will be quarterly and will ask consumers for their opinions of individual publications, the catalog as a whole, the price of various publications, readability, and ease of ordering, as well as their suggestions for new publications.

Timetable: The first of the quarterly surveys will be conducted in August 1976.

2. *Public Opinion Research.* GSA has contracted with a professional research firm to measure consumer interest in proposed topics for new publications. This is accomplished through home interviews with a national sample of the population four times each year. The surveys are designed to reveal a cross section of consumer interests from the broadest possible national audience. Results are broken out by age, income, and education, among other factors, so that proposed new publications can be identified by interest group. Equipped with these results the Center will have a clearer picture of the public's current interest in specific consumer topics, and will be better prepared to encourage the development and distribution of appropriate publications.

Timetable: The first of the quarterly surveys was conducted in December 1975.

FEDERAL INFORMATION CENTERS

The Federal Information Center program gives consumers a single point of contact for information about the Federal Government. Instead of placing innumerable telephone calls or being referred from office to office, consumers can go directly to a Federal Information Center for answers to their questions. Specialists at the Federal Information Centers will either provide immediate help or direct the consumer to the specific Federal office that can answer the question. Consumers in 74 metropolitan areas (See Appendix C) representing more than 50% of the population can visit or call, toll-free, and get this personalized help. Bilingual staff members offer assistance in Spanish, French, and other languages in

46 of the 74 cities served. In FY 1976, Federal Information Centers handled approximately 7 million inquiries. However, public hearings on the Consumer Representation Plan revealed that many consumers were unaware of this service. Therefore, to further increase the visability and promote greater public use of Federal Information Centers, GSA is taking these steps:

1. *Public Service Campaign.* In those 74 metropolitan areas with access to either a Federal Information Center or a toll-free line, GSA will launch the first of a series of annual public service campaigns to make more consumers aware of Federal Information Center services. The campaign will involve both radio and television.

Timetable: The first campaign will begin by September 30, 1976.

2. *Community Liaison.* Federal Information Centers are establishing and will maintain liaison with leaders in local organizations to encourage greater community use of the service. Through this continuous working relationship, greater community use of the service will be promoted by such group as: local media; state and local consumer offices; educators; and appropriate community and consumer organizations.

Timetable: Liaison efforts began July 31, 1976.

3. *Agency Liaison Unit.* Helping the public find answers to questions about the Federal Government makes Federal Information Centers directly aware of the most common problem areas consumers encounter. In the past there has been no systematic way to bring these problem areas to the attention of the appropriate Federal agency. Therefore, GSA has established an agency liaison unit in the national Federal Information Center office to report to Federal agencies, on at least a quarterly basis, such information as the numbers and types of inquiries received and the pattern of problems that exist at local levels. The agency liaison unit also keeps abreast of new Federal programs and changes in existing programs and communicates this information to local Federal Information Centers. This helps insure that the Federal Information Center specialists give the public current and responsive information. Further, Federal Information Centers will report to the Consumer Information Center whenever a pattern of requests for specific information indicates the potential need for a consumer publication.

Timetable: The agency liaison unit began operation July 31, 1976.

4. *Program Expansion.* GSA will expand the service currently available in 74 major metropolitan areas to 10 additional cities. Further, GSA will study and report on various means for expanding this program to small cities and rural communities in a continuing effort to provide Federal Information Center service to the broadest possible audience.

Timetable: The expansion to 10 new metropolitan areas and the comprehensive study will be completed by June 30, 1977.

APPENDIX A.—SUMMARY OF PUBLIC COMMENT

The General Services Administration's Consumer Representation Plan has been substantially revised to incorporate written and oral suggestions received during the comment period which began with publication of the plan in the FEDERAL REGISTER on November 26, 1975, and closed on March 1, 1976.

During this time the public was invited to send comments directly to the agency and/or to express their views directly at nine regional White House conferences and at a public hearing held in Washington, D.C., on February 26, 1976.

On May 26, 1976, GSA's Director of Consumer Affairs made a presentation to the President's Consumer Advisory Council. They reviewed each section of the plan and were pleased with the actions GSA will implement on behalf of consumers.

The following suggestions have been incorporated into the plan:

(1) Clarification and simplification of the FEDERAL REGISTER through publication and distribution of concise summaries of those Federal Register documents with significant consumer impact;

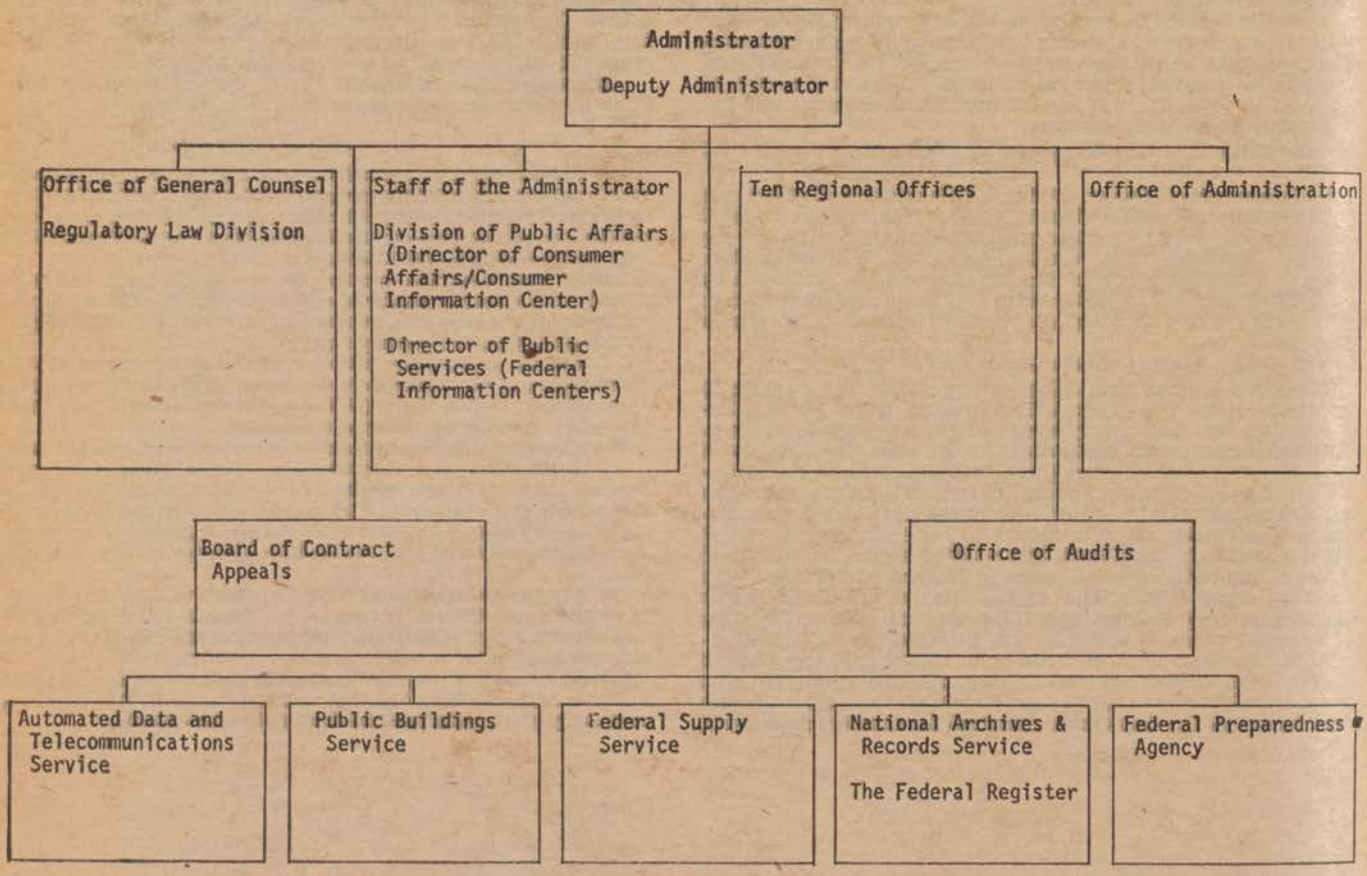
(2) Appointment of a Director of Consumer Affairs to coordinate the implementation of the plan and to represent consumers within GSA;

(3) Advance notification of GSA's intention to intervene in public utility cases through notices in the FEDERAL REGISTER; and

(4) Deletion of the section on Business Service Centers since this program has limited direct impact on consumers.

Several consumers proposed that all of the information materials available from the Consumer Information Center be free of charge. This suggestion could not be adopted for cost reasons.

APPENDIX B - GSA ORGANIZATION CHART



APPENDIX C.—FEDERAL INFORMATION CENTERS/1976

Alabama

Birmingham (205) 322-8591.
Mobile (205) 438-1421.

Arizona

Phoenix (602) 261-3313.
Tucson (602) 622-1511.

Arkansas

Little Rock (501) 378-6177.

California

Los Angeles (213) 688-3800.
Sacramento (916) 440-3344.
San Diego (714) 293-6030.
San Francisco (415) 556-6600.
San Jose (408) 275-7422.

Colorado

Colorado Springs (303) 471-9491.
Denver (303) 837-3602.
Pueblo (303) 544-9523.

Connecticut

Hartford (203) 527-2617.
New Haven (203) 624-4720.

District of Columbia

Washington (202) 755-8660.

Florida

Fort Lauderdale (305) 522-8531
Jacksonville (904) 354-4756.
Miami (305) 350-4155.
St. Petersburg (813) 893-3495.
Tampa (813) 229-7911.
West Palm Beach (305) 833-7566.

Georgia

Atlanta (404) 526-6891.

Hawaii

Honolulu (808) 546-8620.

Illinois

Chicago (312) 353-4242.

Indiana

Indianapolis (317) 269-7373.

Iowa

Des Moines (515) 282-9091.

Kansas

Topeka (913) 232-7229.
Wichita (316) 263-6931.

Kentucky

Louisville (502) 582-6261.

Louisiana

New Orleans (504) 589-6696.

Maryland

Baltimore (301) 962-4980.

Massachusetts

Boston (617) 223-7121.

Michigan

Detroit (313) 226-7016.

Minnesota

Minneapolis (612) 725-2073.

Missouri

Kansas City (816) 374-2466.
St. Joseph (816) 233-8206.
St. Louis (314) 425-4106.

Nebraska

Omaha (402) 221-3353.

New Jersey

Newark (201) 645-3600.
Trenton (609) 396-4400.

New Mexico

Albuquerque (505) 766-3091.
Santa Fe (505) 983-7743.

New York

Albany (518) 463-4421.
Buffalo (716) 842-5770.
New York (212) 264-4464.
Rochester (716) 546-5075.
Syracuse (315) 476-8545.

North Carolina

Charlotte (704) 376-3600.

Ohio

Akron (216) 375-5475.
Cincinnati (513) 684-2801.
Cleveland (216) 522-4040.
Columbus (614) 221-1014.
Dayton (513) 223-7377.
Toledo (419) 244-8625.

Oklahoma

Oklahoma City (405) 231-4868.
Tulsa (918) 584-4193.

Oregon

Portland (503) 221-2222.

Pennsylvania

Philadelphia (215) 597-7042.
Pittsburgh (412) 644-3456.
Scranton (717) 346-7081.

Rhode Island

Providence (401) 331-5565.

Tennessee

Chattanooga (615) 265-8231.
Memphis (901) 521-3285.
Nashville (615) 242-5056.

Texas

Austin (512) 472-5494.
Dallas (214) 749-2131.
Fort Worth (817) 334-3624.
Houston (713) 226-5711.
San Antonio (512) 224-4471.

Utah

Ogden (801) 399-1347.
Salt Lake City (801) 524-5353.

Washington

Seattle (206) 442-0570.
Tacoma (206) 383-5230.

Wisconsin

Milwaukee (414) 271-2273.

SMALL BUSINESS ADMINISTRATION

Consumer Representation Plan

PRIMARY CONSUMER CONTACT

Assistant Advocate, Small Business Administration, 1441 L Street, N.W., Room 501C, Washington, D.C. 20416 (202) 653-6579.

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I. STATEMENT OF PURPOSE

This Consumer Representation Plan is designed to ensure to the greatest extent possible that persons who are affected by any major sponsored legislation, regulation, policy, decision, or program action, have the opportunity to comment on the subject before a decision is reached, and that these views are duly considered in the Agency's decision-making process.

It is a basic premise of this Plan that where the machinery and the techniques for assuring public participation already exist within the Agency, they are to be strengthened and that where they do not exist, they will be initiated.

It is also our purpose to provide the mechanisms for giving the management of the Agency a better understanding of consumers' concerns and viewpoints in their relations with SBA.

In general, the Plan is intended to further expand the responsiveness of the Small Business Administration to its public. Our goal is to develop a better rapport between the SBA and the consumer. This Agency's primary mission is to aid the small business, but this mission does not preclude persons—other than the small business person—affected by SBA's regulations, policies, and programs from participating in the Agency's decision-making process.

II. EXECUTIVE SUMMARY

The Small Business Administration, by statute and by Executive Order, is charged with the responsibility of representing the interests of small business concerns. To carry out its mandate to "aid, counsel, assist and protect, insofar as possible, the interests of small business concerns in order to preserve free competitive enterprise," the Small Business Administration has established policies and procedures which directly assist small businesses, and indirectly affect the general consuming public.

SBA is, therefore, open to comments, criticisms, and suggestions on Agency policy from individual consumers and consumer groups.

The primary purpose of the SBA Consumer Representation Plan is to keep the avenues for public comments, suggestions, etc. open, and to provide for an exchange of information with the public and to facilitate participation in SBA's decision-making process by the consuming public.

This Consumer Representation Plan centers on our advocacy effort, and also highlights program areas currently maintaining communications with the public. In addition, we intend to broaden this outreach effort by:

Strengthening local office advocacy activities;

Expanding consumer representation on the local Advisory Councils;

Designating individuals as Consumer Representatives in the local offices;

Establishing the position of Advocate for Consumer Affairs and Women-in-Business to coordinate all consumer activities. activities.

III. PRIMARY OPERATING UNITS INVOLVED

The Small Business Administration operates its major programs through 102 field offices located in 91 cities in each of the 50 States plus the District of Columbia, Puerto Rico, and Guam. These offices function independently, on a day-to-day basis, but under the same set of policy guidelines issued by the SBA Central Office in Washington. This permits each office to tailor its procedures and practices to the needs of the community in a particular locale. It is, therefore, important that small businesses, small business and trade organizations, and the consuming public make their views known to the local SBA office and to SBA in Washington.

ADVOCACY OFFICE

The Office of Chief Counsel for Advocacy will play a primary role in the implementation of SBA's Consumer Representation Plan.

Located at the SBA Central Office in Washington, D.C., the Advocacy Office serves as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Agency. This input comes from small businesses, from associations and organizations, and from consumers and consumer groups.

SBA has intiated action to add to the function of the Chief Counsel for Advocacy the offices of Public Affairs and Communication. This will provide for coordination and greatly improved responsiveness to public input through advocacy channels and a better dissemination of information, educational material, and general communication.

CONSUMER CONTACTS IN SBA

An Advocate for Consumer Affairs and Women-in-Business reporting to the Chief Counsel for Advocacy, who is a Presidential appointee, will have the responsibility of assuring that SBA program managers fully consider the impact of their decisions in the marketplace. The Advocate will assess proposed program activities to determine consumer impact and will work with program staff to formulate policies that reflect consumer input. The timetable for development of specific program activities in regard to consumers is listed in Part V.

In addition, the Advocate will establish an effective and continuing liaison with state and local governments and appropirate public organizations in order to ensure the broadest possible input of views for SBA decisionmaking.

In the individual SBA field offices, the Regional Directors and District Directors will be the principal Consumer Representatives. As alternates, they will also designate individuals from their staffs to be Local Consumer Representatives. They will be the primary initial contacts for consumers and consumer groups who want to obtain or provide information to SBA on our regulations, procedures, and policies. Through these contacts, consumers will be able to receive immediate attention on the local level. In addition, this network of Consumer Representatives will provide feedback to the policymakers in Washington through the Advocate for Consumer Affairs and Women-in-Business.

It will also be the responsibility of each Consumer Representative to establish and maintain appropriate public contacts on the local level by meeting on an informal basis with individual consumers and consumer groups. Additional opportunities for regular input will be provided through public meetings, hearings, and mailings on issues of concern to the public.

ADVISORY COUNCILS

SBA also sponsors 65 Advisory Councils that will assist in implementing SBA's Consumer Representation Plan.

The National Advisory Council has approximately 170 members which include the Chairperson of the 64 District Advisory Councils and members-at-large appointed by the Administrator of SBA. In total, approximately 2,000 private citizens serve voluntarily on the SBA District Advisory Councils. These individuals represent the small business community, the banking industry, the academic world, and the media. They keep SBA officials informed and at the same time provide information on SBA programs to their private sector contacts.

Many of the council members represent the views of the public-at-large and have in the past also represented consumer views. To strengthen the consumer voice on the councils, we are currently adding as members persons who are active consumer advocates and/or members of consumer groups, organizations, or associations.

Interested citizens may contact SBA District Directors for the names of Advisory Council Chairpersons or committee chairpersons for the purposes of making their views known and to offer their services.

PUBLIC INFORMATION OFFICERS

SBA maintains full-time public affairs officers in each of the ten regional cities. The SBA Central Office public information staff also provides direct informational services and relays source data concerning inquiries from small businesses, the educational community, the press, and others. These officers are charged with the responsibility of keeping the public fully informed as to the activities, plans, policies, and regulations that affect individuals and the small business community.

To aid in the implementation of SBA's Consumer Representation Plan, the public information offices will expand their mailing lists by including additional names of consumers and consumer groups who express an interest in regularly receiving press releases, notices of public meetings, and general mailings on SBA activities. There will be broader circulation of the Federal Register announcements concerning public hearings held by SBA on its proposed policy actions. This effort is directed at the consuming public who generally do not have access to the FEDERAL REGISTER and yet may want to provide input for SBA's policy proposals.

IV. AGENCY PLAN

A. TO IMPROVE THE FLOW OF INFORMATION TO SBA

1. *Policy Advisory and Program Planning.* There are two general approaches being utilized to infuse the Agency with new ideas, approaches, and concepts. The approximately 2,000 members of the District and National Advisory Councils forward resolutions to the SBA Administrator covering past Agency performance, suggestions for new areas of program implementation, and suggestions for government-wide initiatives. Every one of these formal resolutions is examined in detail by top SBA officials.

District Advisory Councils have established working committees covering such matters as Finance and Banking, Public and Professional Relations, Management Assistance, Marketing, Resolutions, Bicentennial Planning, Outreach, Advocacy, and Liaison with a Consumer Advocate or a pubic member on each District Advisory Council committee.

In addition, a Consumer Panel to advise SBA management on the specific activities that SBA should undertake to ensure a consumer awareness in all SBA programs, policies, and procedures, and reporting to the National Advisory Council Chairperson, is in the planning stages. As a result of these committee activities, SBA officials are kept informed of many public interests and activities.

The second general approach to include more private sector participation in the Agency's policy and program planning is through the Advocacy efforts to work with small business organizations, community organizations, consumers, and consumer groups.

Information has been solicited from hundreds of organizations around the Nation to determine which ones were truly concerned with SBA policies and decision-making procedures. Our present Central Office listing of 175 organizations is being rapidly expanded as our field offices are becoming more involved in Advocacy activities. These groups act as a sounding board for small business problems, provide the SBA input on proposed and existing Federal regulations, as well as serving as a channel to disseminate SBA information.

The Advocacy Office intends to meet informally with organization representatives and consumer groups. Through a mutual exchange of information, we will remain aware of consumer needs and interests in relation to SBA regulations, policies, and procedures.

In addition to these two basic mechanisms, there are specialized activities within the programs that provide for a consideration of the relationship between small businesses and their "market," which is an aggregation of individual consumers. For example, many training conferences and publications are available through our Management Assistance program to provide information on consumer responsive marketing techniques for small businesses. These marketing aids stress the importance of proper handling of the customer as a prime factor in the success or failure of the business.

The Advocate for Consumer Affairs and Women-in-Business will be in constant contact with program managers and will participate in their policy formation activities in order to ensure that consumer interests are considered. Under the direction of the Advocate, every program office will develop a concrete plan for consumer action which will be implemented under the coordinated efforts of the Advocate and the program managers. These program plans will be published and available for consumers to review.

2. *Evaluation of Policy Information.* The SBA Advisory Council's submission of resolutions (discussed above) provides a basis for program elements within SBA to consider the information presented along with the resolutions as these relate to SBA program operation. This information also serves as a tool in establishing the direction of SBA programs.

3. *Communication of SBA Policies.* SBA has sponsored a number of multi-agency conferences on government assistance. At these conferences, representatives from government agencies, such as the Department of Labor, and the Internal Revenue Service, as well as SBA, conduct seminars and provide individual counseling. A number of conferences have already been held, with additional conferences scheduled throughout the year. Attendance at each conference so far has exceeded 1,000. These meetings provide an excellent forum for government agencies, including SBA, to learn firsthand of the problems, difficulties, and views of small business and the consuming public as they pertain to SBA programs, policies, and procedures.

In addition, we have inaugurated "Project 1776" to inform the public of SBA's programs and services—particularly those profitable and red-tape-cutting programs that we are already putting into effect. This plan calls for SBA personnel to speak before a minimum of 1,776 organizations throughout the Nation. We must do this to increase awareness of the Agency's services and to provide added opportunities for an open exchange with the public concerning SBA regulations, procedures, and policies.

4. *Consumer Correspondence and Complaint Handling.* All letters, telegrams, and other correspondence directed to the Advocate for Consumer Affairs and Women-in-Business and to the local Consumer Representatives will be handled by these individuals as controlled mail. This means each type of correspondence will be logged in so that it becomes part of the official record of Consumer activities. This correspondence will then be assigned a deadline for a response. According to workload, the response will be sent in 5–10 working days from receipt.

B. TO IMPROVE INFORMATION FLOW FROM SBA

1. *Communication and Feedback.* Those mechanisms which provide input also serve to relay information to the public. For instance, when SBA recently increased many of its size standards to account for inflationary conditions, proposed changes were widely circulated through private organizations, through other Federal departments and agencies, and through the Advisory Councils.

All comments received as a result of published proposed rulemaking are acknowledged and the final decision explained.

Speeches made by key agency decision-makers are sent to interested private and public organizations and are made available through SBA's Public Information Offices to the media and to the general public. Mailing lists are maintained to facilitate this distribution of information.

In addition, daily communication is maintained by the Office of Chief Counsel for Advocacy with representatives of small business, trade, and consumer organizations that have indicated a particular interest in keeping informed of SBA activities. The Advocate for Consumer Affairs and Women-in-Business will specifically be responsible for disseminating information on SBA regulations, procedures, and policies to individual consumers and to consumer groups. In addition to mailing lists, the exchange of information will take the form of informal meetings, public meetings and hearings, or other appropriate information channels.

2. *Education.* Under the direction of the Advocate for Consumer Affairs and Women-in-Business, information and educational materials will be developed to better educate the public about SBA policies and procedures so as to assure meaningful consumer representation in SBA activities.

Public forums, such as conferences sponsored by SBA through its programs for management and technical assistance, will also be utilized as mechanisms for input regarding SBA activities. Announcements of such meetings are widely circulated, particularly by the media in the geographic area where the conferences are to be held, and additional details are available from the local SBA offices.

V. Schedule of Events

Publication of Final SBA Consumer Representation Plan, July 1976.
Publication of Final Guidelines to Implement the SBA Consumer Representation Plan, July 1976.
Deadline for Program Offices to Submit Plans for Implementation of the Plan and the Guidelines, August 1976.
Implementation of Final Plan and Guidelines, September 1976.

Appendix A.—Comments on Consumer Plan

In November 1975, the Small Business Administration published its proposed Consumer Representation Plan. The questions submitted in consumer letters to SBA since then have requested detailed information on:

SBA Management Assistance—
Publications;
Workshops.
SBA Financial Assistance—
Eligibility for loans;
How interest rates are set.
Advisory Councils—
Selection of members;
Frequency of meetings;
Role in agency decisionmaking.
Small Business Costs—
Of paperwork;
Of compliance with government regulations.
Distribution of SBA Information—
Federal Register notices;
Mailing lists.

Appendix B—List of Consumer Contacts

SBA FIELD OFFICES, ADDRESSES, DIRECTORS, PUBLIC TELEPHONE NUMBERS

I. Boston Regional Office, 150 Causeway St.—10th Floor, Boston, Mass. 02114, Talbot DeG. Bulkley, Regional Director (617) 223–2100.

Boston District Office, 150 Causeway Street—10th Floor, Boston, Mass. 02114, Albert J. Prendergast, District Director (617) 223–2100.

Augusta District Office, 40 Western Avenue—Room 512, Augusta, Maine 04330, Thomas A. McGillicuddy, District Director (207) 622–6171.

Concord District Office, 55 Pleasant Street—Room 213, Concord, N.H., Bert F. Teague, District Director (603) 224–4041.

Hartford District Office, 450 Main Street—Room 710, Hartford, Conn. 06103, Thomas E. Higgins, District Director (203) 244–2000.

Montpelier District Office, 87 State Street—Room 210, Montpelier, Vt. 05602, David C. Emery, District Director (802) 223–7472.

Providence District Office, 57 Eddy Street—Room 710, Providence, R.I. 02903, Charles J. Fogarty, District Director (401) 528–1000.

II. New York Regional Office, 26 Federal Plaza—Room 3930, New York, N.Y. 10007, Windle B. Priem, Regional Director (212) 264–1468.

New York District Office, 26 Federal Plaza—Room 3100, New York, N.Y. 10007, Woodie G. Williams, District Director (212) 264–4355.

Hato Rey District Office, 255 Ponce De Leon Avenue—5th floor, Hato Rey, Puerto Rico 00919, Antonio Yordan, District Director (809) 763–6363.

Newark District Office, 970 Broad Street—Room 1635, Newark, N.J. 07102, Andrew P. Lynch, District Director (201) 645–3581.

Syracuse District Office, Fayette and Salina Streets, Syracuse, N.Y. 13202, J. Wilson Harrison, District Director (315) 473–3350.

III. Philadelphia Regional Office, 231 St. Asaphs Road Suite 646, Bala Cynwyd, Pennsylvania 19004, A. M. Peterson, Regional Director (215) 597–3311.

Philadelphia District Office, 231 St. Asaphs Road Suite 400, Bala Cynwyd, Pa. 19004, William B. Patterson, District Director (215) 596–3888.

Baltimore District Office, 7800 York Road, Towson, Md. 21204, Gerald J. Lang, District Director (301) 962–3311.

Clarksburg District Office, 109 North Third Street, Clarksburg, W. Va. 26301, Isaac R. Mayfield, District Director, (304) 623–3461.

Pittsburgh District Office, 1000 Liberty Avenue, Pittsburgh, Pa. 15222, Jack C. Forbes, District Director (412) 644–2780.

Richmond District Office, 400 North Eighth Street—Room 3015, Richmond, Va. 23240, Raymond Kuttenkuler, District Director (804) 782–2618.

Washington District Office, 1030 15th Street N.W.—Suite 250, Washington, D.C. 20416, Leon J. Bechet, District Director (202) 382–3525.

IV. Atlanta Regional Office, 1401 Peachtree Street, N.E., Atlanta, Ga. 30309, Wiley S. Messick, Regional Director (404) 526–0111.

Atlanta District Office, 1720 Peachtree Street N.W., Atlanta, Ga. 30309, John D. Sewell, District Director (404) 526–5749.

Birmingham District Office, 908 South 20th Street, Birmingham, Ala. 35205, James C. Barksdale, District Director (205) 254–1000.

Charlotte District Office, 230 South Tryon Street, Suite 700, Charlotte, N.C. 28202, George W. Marschall, District Director (704) 372–0711.

Columbia District Office, 1801 Assembly Street, Columbia, S.C. 29201, Vern F. Amick, District Director (803) 765–5376.

Coral Gables District Office, 2222 Ponce de Leon Blvd., 5th Floor, Coral Gables, Fla. 33134, Thomas A. Butler, District Director (305) 350–5011.

Jacksonville District Office, 400 West Bay Street, Jacksonville, Fla. 32202, Douglas E. McAllister, District Director (904) 791–2011.

Louisville District Office, 600 Federal Place, Louisville, Ky. 40202, R. B. Blankenship, District Director (502) 582–5971.

Jackson District Office, 200 East Pascagoula, Room 690, Jackson, Miss. 39201, Ardis Jones, District Director (601) 969–4371.

Nashville District Office, 404 James Robertson Parkway, Nashville, Tenn. 37219, William J. L. Shaver, District Director (813) 228–2594.

V. Chicago Regional Office, 219 South Dearborn Street, Chicago, Illinois 60604, H. L. Aronson, Jr., Regional Director (312) 353–4400.

Chicago District Office, 219 South Dearborn Street, Chicago, Ill. 60604, John L. Smith, District Director (312) 353–4528.

Cleveland District Office, 1240 East Ninth Street, Cleveland, Ohio 44199, S. Charles Hemming, Jr., District Director (216) 522–4416.

Columbus District Office, 34 North High Street, Columbus, Ohio 43215, Frank D. Ray, District Director (614) 469–6860.

Detroit District Office, 1249 Washington Blvd., Room 1200, Detroit, Mich. 48226, Ray Harshman, District Director (313) 226–6075.

Indianapolis District Office, 575 North Pennsylvania Street, 5th Floor, Indianapolis, Ind. 46204, William F. Miller, District Director (317) 269–7272.

Madison District Office, 122 West Washington Avenue, Room 713, Madison, Wisc. 53703, Lucian G. Schlimgen, Jr., District Director (608) 252–5261.

Minneapolis District Office, 12 South Sixth Street, Minneapolis, Minn. 55402, Paul W. Jansen, District Director (612) 725–2362.

VI. Dallas Regional Office, 1720 Regal Row—Suite 230, Dallas, Texas 75235, Frederick S. Neumann, Regional Director (214) 749–1011.

Dallas District Office, 1100 Commerce Street, Dallas, Texas 75242, L. H. Hudspeth, District Director (214) 749–1011.

Albuquerque District Office, 5000 Marble Avenue, N.E., Albuquerque, N. Mex 87110, Anthony Panagakos, District Director (505) 474–5511.

Houston District Office, One Allen Center—Suite 705, 500 Dallas, Houston, Tex. 77002, John L. Carey, District Director (713) 527–4011.

Little Rock District Office, 611 Gaines Street—Suite 900, Little Rock, Ar. 72201, Maurice L. Britt, District Director (501) 740–5011.

Lubbock District Office, 712 Federal Office Building, 1205 Texas Avenue, Lubbock, Tex. 79401, Phillip J. O'Jibway, District Director (806) 738–7011.

Lower Rio Grande Valley District Office, 219 East Jackson Street, Harlingen, Tex. 78550, James R. Woodall, District Director (512) 734–3011.

Marshall District Office, 505 East Travis Street, Marshall, Tex. 75670, Emly S. Atkinson, District Director (214) 749–1011.

New Orleans District Office, 1001 Howard Avenue—17th Floor, New Orleans, La. 70113, William F. Murfin, District Director (504) 682–2611.

Oklahoma District Office, 50 Penn Place—Suite 840, Oklahoma City, Okla. 73118, Truman Branscum, District Director, (405) 736–4011.

San Antonio District, 272 East Durango—Room A–513, San Antinio, Tex. 78206, James S. Reed, District Director (512) 730–5511.

VII. Kansas City Regional Office, 911 Walnut Street—23rd Floor, Kansas City, Missouri 64106, Deryl K. Schuster, Regional Director (816) 374–7212.

Kansas City District Office, 12 Grand Bldg.—5th Floor, 1150 Grand Ave., Kansas City, Mo. 64106, Gerald D. Jepson, District Director (816) 372–7212.

Des Moines District Office, 210 Walnut Street, Des Moines, Iowa 50309, Harold D. Sears, District Director (515) 284–4000.

Omaha District Office, 215 North 17th Street, Omaha, Neb. 68102, Rick S. Budd, District Director (402) 221–1221.

St. Louis District Office, 210 North 12th Street—Room 520, St. Louis, Mo. 63101, Thomas L. Holling, District Director (314) 279–4110.

Wichita District Office, 110 East Waterman, Wichita, Kan. 67202, Clayton Hunter, District Director (316) 267–6311.

VIII. Denver Regional Office, Executive Tower Bldg., 1405 Curtis Street, Denver, Colo. 80202, Victor M. Rivera, Regional Director (303) 327–0111.

Denver District Office, 721 19th Street—Room 407, Denver, Colo. 80202, Douglas F. Graves, District Director (303) 327–0111.

Casper District Office, 100 East B Street, Casper, Wyo. 82601, Jerry S. King, District Director (307) 328–5330.

Fargo District Office, 653 Second Avenue North—Room 218, Fargo, N. Dak. 58102, E. Maine Shafer, District Director (701) 783–5771.

Helena District Office, 618 Helena Avenue, Helena, Mont. 59601, Ottley R. Tschache, District Director (406) 588–5011.

Salt Lake City District Office, 125 South State Street—Room 2237, Salt Lake City, Utah 84138, Clair R. Hopkins, District Director (801) 588–5500.

Sioux Falls District Office, Eighth and Main Avenue, Sioux Falls, S. Dak. 57102, Chester Boyd Leedom, District Director (605) 782–4980.

IX. San Francisco Regional Office, 450 Golden Gate Avenue—Box 36044, San Francisco, California 94102, Gilbert Montano, Regional Director (415) 556–9000.

San Francisco District Office, 450 Golden Gate Avenue—Box 36044, San Francisco, Calif. 94102, Vacant (415) 556–9000.

Las Vegas District Office, 301 East Stewart—Box 7527, Downtown Station, Las Vegas, Nev. 89101, Robert S. Garrett, District Director (702) 385–6011.

Honolulu District Office, 1149 Bethel Street—Room 402, Honolulu, Hawaii 96813, David K. Nakagawa, District Director (808) 546–8950.

Los Angeles District Office, 350 S. Figueroa St.—6th Floor, Los Angeles, Calif. 90071, Stewart L. Rollins, District Director (213) 688–2000.

Phoenix District Office, 112 North Central Avenue, Phoenix, Ariz. 85004, Stanley D. Goldberg, District Director (602) 261–3900.

San Diego District Office, 110 West C Street—Suite 705, San Diego, Calif. 92101, Fred D. Sergent, District Director (714) 293–5000.

X. Seattle Regional Office, 710 Second Avenue—5th Floor, Seattle, Wash., Daniel B. Ward, Regional Director (206) 442–0111.

Seattle District Office, 710 Second Avenue—5th Floor, Seattle, Wash. 98104, Robert F. Caldwell, District Director (206) 442–0111.

Anchorage District Office, 1016 West Sixth Avenue—Suite 200, Anchorage, Alaska 99501, Frank D. Cox, District Director (907) 272–5561.

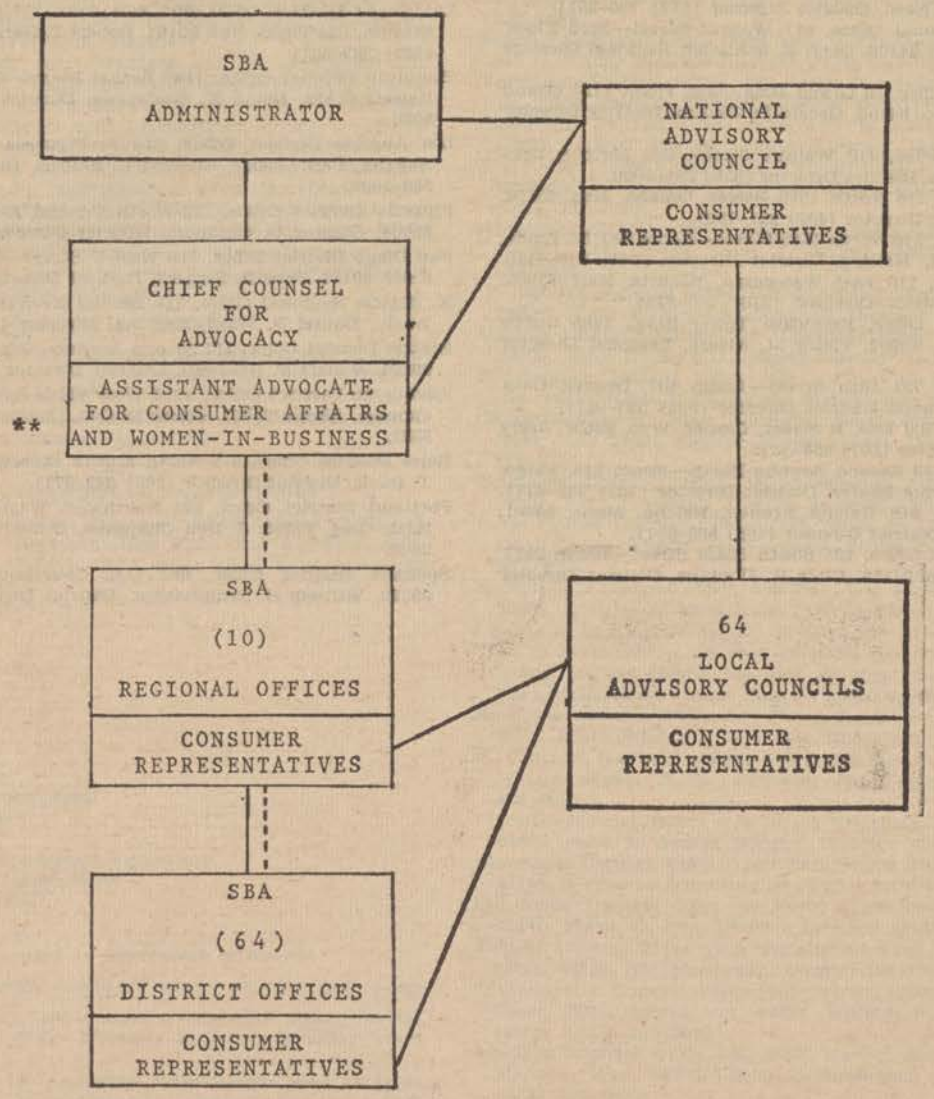
Boise District Office, 216 North Eighth Street, Boise, Idaho, Oliver T. Davis, District Director (208) 342–2711.

Portland District Office, 921 Southwest Washington Street, Portland, Oreg. 97205, J. Don Chapman, District Director (503) 221–2000.

Spokane District Office, 651 U.S. Courthouse, Spokane, Wash. 99120, William S. Schumacher, District Director (509) 456–0111.

APPENDIX C

CONSUMER AFFAIRS ORGANIZATION CHART



** Primary Consumer Contact

DEPARTMENT OF DEFENSE

Consumer Representation Plan

PRIMARY CONSUMER CONTACT

Consumer Representation Coordinator, Office of the Secretary, Department of Defense, Washington, D.C. 20301 (202) 697-9191.

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I. STATEMENT OF PURPOSE

A. The purpose of this program is to ensure, to the greatest extent possible, that persons who are affected by consumer oriented Defense-sponsored legislation, regulations, policy decision, or program action have the opportunity to comment on the subject before a decision is reached, and that their views are duly considered in the decision-making process. It is also intended to actively solicit consumer opinion and ensure that appropriate feedback is provided regarding consumer suggestions.

B. It is a basic premise of this program that, where the machinery and the techniques for assuring consumer representation already exist, they are to be strengthened; where they do not exist, they will be instituted. Its purpose is also to provide the mechanism for ensuring a better understanding of consumers' concerns and viewpoints.

C. This program is intended to make it easier for consumers, planners and managers to focus their attention on issues of special and general consumer concern throughout the DoD. It includes procedures that apply to both civilian consumers affected by Defense activities and to consumers who are eligible for goods and services provided by DoD facilities. Details concerning the scope of these procedures follow.

II. EXECUTIVE SUMMARY

A. Many Defense activities impact in some manner upon the civilian sector and affect many consumers. Those that have the greatest effect and provide a practical opportunity for consumer representation are included in this program. In Section III.A. is a detailed discussion of each of the following Defense-sponsored activities which meet these criteria:

1. Consumer Product Information Program.
2. Civil Works Program.
3. Environmental Impact and Economic Adjustment Assistance.
4. Civil Defense Preparedness.
5. Dissemination of Scientific and Technical Information.

B. Section III.B. covers consumer representation procedures that affect those eligible persons who consume goods and services offered within the Defense establishment. The following major areas are highlighted and are included in this program:

1. Personal Commercial Affairs.
2. Recreational Activities.
3. Housing.
4. Transportation.
5. Legal Assistance.
6. Health Programs.
7. Military Resale Activities.

C. Specific consumer representation programs shall be developed and published by DoD Components, in conformance with the general guidance contained herein.

D. Adequate mechanisms shall be established to monitor the effectiveness of the Consumer Representation Program, including a plan to establish the accountability for implementation.

E. The Assistant Secretary of Defense (Manpower and Reserve Affairs) (ASD(M&RA)) shall maintain primary responsibility for consumer affairs and within his staff, shall designate a Consumer Representation Program Coordinator. Other staff elements of the Office of the Secretary of Defense (OSD) shall maintain cognizance of those consumer activities which are specifically in their functional area of responsibility and advise the ASD(M&RA), when appropriate.

F. This document will serve as the OSD Consumer Representation Program. All other DoD Components which have activities that affect, or are affected by, consumer affairs shall develop, publish and monitor a Consumer Representation Program. These DoD Components shall consider, with respect to each program element, the appropriateness of additional mechanisms to assure increased consumer representation.

III. DEPARTMENTAL PLAN

A. DEPARTMENT OF DEFENSE ACTIVITIES WHICH IMPACT ON ALL CONSUMERS

1. *Consumer Product Information Program.* DoD shall participate in a Government-wide Consumer Information Program. This program is designed to share with the civilian community the product knowledge gained through DoD testing of products purchased for its own use. The information will be provided to the General Services Administration which is responsible for its public dissemination. Complete details of this program are contained in DoD Directive 5030.48 (reference (a)).

2. *Civil Works Program.* a. The Secretary of the Army is responsible for the Civil Works Program, as administered by the U.S. Army Corps of Engineers. The primary purpose of the Civil Works Program is to provide benefits to the American public by the conservation and development of the Nation's water resources. The Chief of Engineers and top managers throughout the program participate in natural resources and public policy conferences to obtain input firsthand from leaders in industry, nonprofit organizations and consumer groups. When letters to the Corps indicate an issue of significant national consumer interest, the Office of the Chief of Engineers holds hearings to solicit consumer input to the policy formulation process. When an area of continuing consumer concern is identified, an advisory board is established to obtain a continuing source of input from consumer representatives. One such board is the Chief of Engineers Environmental Advisory Board, composed of members representing conservation organizations, the news media, and other consumer interests. The boards will aid the Chief of Engineers in defining and meeting the Corps' obligations and responsibilities in environmental matters and in promoting mutual understanding.

b. Perhaps the greater and more visible consumer input to the Civil Works Program is in the conduct of the program in the local district offices. Consumer input is essential from the beginning, and is solicited by a variety of mechanisms.

(1) Public meetings are conducted by the Corps at critical decision-making points in the planning process. Three meetings are recommended: the first to obtain input from the consumer regarding the problems and need for a study; the second to review, with the consumer, alternative solutions to problems and needs identified in the study, and to obtain consumer reactions to the alternative solutions; and finally to obtain consumer reaction on the plan, including any recommendations for the Federal Government's participation in implementing the plan. The public meetings are held to inform the consumer and to give all interested parties an opportunity to fully and publicly express their views. The public meeting, as a mechanism, has been used for many years and has received consumer acceptance as an important, but certainly not the only, means of entering the decision-making process; other consumer input mechanisms are employed, such as:

(a) Workshops,
(b) Informal meetings with consumer groups,
(c) Request for comments on draft reports and draft environmental impact statements,
(d) Request for comments on public information brochures,
(e) Solicitation of advice from consumers through telephonic and face-to-face contact,
(f) The establishment of consumer advisory committees.

(2) The following mechanisms are established to ensure that input from consumers is adequately solicited and evaluated:

(a) A consumer involvement program is developed at the beginning of a study,

(b) A summary of consumer involvement program implementation must be incorporated in planning reports,

(c) A requirement that testimony presented and discussions held, at public meetings, are recorded verbatim and reviewed in the evaluation and decision-making process by a district office and higher echelons.

c. There is an extensive information program to facilitate consumer understanding of and participation in the Civil Works Program.

(1) Mailing lists are maintained to facilitate this education process. In addition, there is wide distribution of publications. For example, a water resources booklet, which includes information on all Corps activities in a State, is prepared for each State. Pamphlets on all of its reservoir recreation areas are published. Publications are also available on special subjects of high consumer interest. Consumers are also provided with flood-plain and public safety information and training sessions are conducted for flood emergencies. A catalog of information films on water resources and related subjects is widely distributed, and the films are available for loan upon request. Finally, each Corps office has a speakers bureau which provides speakers (and often film) to requesting consumer groups.

(2) Another widely used mechanism for keeping the consumer informed is the public notice. Notices are often released by the district office on specific plans and projects under consideration, permit hearings, and public meetings. The Corps has made a concerted effort to make such notices less formal, more informative and of greater use to the consumer.

(3) Feedback to consumers on their comments, inquiries, or complaints will normally be handled by individual letters. Comments on proposed regulations are solicited from the public and will be acknowledged in the FEDERAL REGISTER when the final regulation is adopted. Copies of the final regulations will also be sent to those parties who commented on the proposed regulations.

3. *Environmental Impact and Economic Adjustment Assistance.* a. Under the provisions of the National Environmental Policy Act (NEPA)of 1969) as amended (reference (b) (1) and as implemented by DoD Directive 6050.1 (reference (c)), each proposed action must be assessed to ascertain its environmental impact. In this assessment process, the direct impact on the natural environment will be considered, as well as secondary impacts, such as traffic patterns, employment, housing, etc. If the proposed action may significantly impact the quality of the human environment, or if it is anticipated to be environmentally controversial, then an Environmental Impact Statement (EIS) shall be prepared and public, Federal, State, and local comments on the proposal solicited. The substantive comments received are to be addressed and incorporated into a final impact statement and filed with the Council on Environmental Quality (CEQ). No administrative action on the proposal is to be taken for 30 days after the final EIS is filed. This is to provide the Environmental Protection Agency an opportunity to fulfill its statutory requirements under Section 309 of the Clean Air Act of 1970. Notice of the filing of both the draft and the final EIS will be noted in the FEDERAL REGISTER. This process requires a minimum of 90 days. The final impact statement is to accompany the proposal through the DoD Components' review process so that the decision-maker can give due consideration to the environmental impact concurrent with technical, operational, economic and other factors in making the final decision.

b. When individuals and local communities are adversely affected, whether or not an EIS is prepared, by a DoD decision or action, assistance is provided under the Economic Adjustment Program. This assistance program is carried out under the auspices of the President's Economic Adjustment Committee which is chaired by the Secretary of Defense. The Committee coordinates the use of available Federal resources to help impacted communities generate new jobs to replace lost Defense jobs. The Economic Adjustment Program will be carried out under the provisions of DoD Directive 5410.12 (reference (d)). When serious economic impacts from DoD base closures or realignment actions are unavoidable, assistance shall be provided to individuals and communities through this program, as follows:

(1) *Employment Impact.* The effect on the area's manpower requires that the Committee give major emphasis to the needs of the affected employees in transferring, retiring, retraining or obtaining placement assistance with the private sector. The Defense Priority Placement Program, DoD Directive 1400.20 (reference (e)), provides maximum placement assistance prior to and subsequent to reduction-in-force separations. All affected career employees are given the opportunity to register for placement assistance under this program.

(2) *Housing Impact.* (a) The Homeowners Assistance Program, DoD Directive 5100.54 (reference (f)), assists both military and civilian employee homeowners by reducing losses incident to the disposal of their homes. When the local housing market is seriously affected by closure cutbacks at military installations, employees are assisted in disposing of their residences at a small discount from fair-market value.

(b) In addition to the assistance to individual homeowners, the Committee works closely with the community and its business leaders on the orderly acquisition and disposal of surplus military housing at former military installations. Close coordination between Federal and local authorities is required to assure that the disposal of this housing does not seriously disrupt the local housing market.

(3) *Property Impact.* The Committee assists communities in the conversion of former Defense bases to meet public needs and job-generating uses such as industrial, educational, health and transportation. Disposition of this property requires cooperation with the citizenry and public bodies in each of the impacted areas. The focus of the Committee is to work with local leaders and citizens on developing a base-use plan, arranging interim use of these facilities and facilitating final conveyance of this property to the community.

(4) *School Impact.* The Committee works with area educators to alleviate the impact caused by the relocation of personnel and the loss of Federal education assistance funds.

(5) *Small Business Impact.* Many small business firms are affected by these realignment actions as a result of their subcontracts with the base or with a major prime contractor. These firms include the full gamut of firms in the real estate, service, construction and financial sectors. The assistance provided through the Committee to these enterprises is directed at each of the individual firms and the peculiar problems these firms face in diversifying their product lines and service orientation.

(6) *Community Impact.* (a) A major realignment action often highlights the need to address specific community needs that may be met through the acquisition of surplus base property. Dependent upon the size and character of the base, various parts may be utilized for public purposes at much less cost than constructing new facilities.

(b) The Committee encourages affected communities to undertake adjustment effort in which all facets of the impact are addressed and resolved in the shortest time and with minimum outlay of resources. The Committee helps to marshal those Federal resources that are supportive of community goals and objectives and to reinforce the vital role of the private sector in each impact location.

c. Because of these problems, the Economic Adjustment Program requires the full participation of citizens in the organizational, planning, property disposal, and implementation phases in each community. From the outset of a project, broad citizen participation is sought from representatives of labor, education, business, public service, real estate, social services, and environmental groups, etc. Meetings are held in public buildings and open to all citizens. Specifically, citizen and consumer participation is made possible by the following actions:

(1) Citizens are encouraged to establish an organizational vehicle to solve problems, if such an existing mechanism is lacking;

(2) Citizen participation in the formulation of the recovery plan;
(3) Citizens' ideas and suggestions will be embodied in all committee reports;
(4) Citizens have the option of accepting or rejecting, in whole or in part, the specific economic adjustment plans to be implemented in an impacted community.
d. Individuals or organizations desiring additional information about the Economic Adjustment Program should communicate with the Director, Office of Economic Adjustment, Department of Defense, Washington, D.C. 20301.
4. *Civil Defense Preparedness.* a. The Defense Civil Preparedness Agency is responsible for preparing plans and programs for the Civil Defense of the United States, as specified in DoD Directive 5105.43 (reference (g)). The Director and his staff work closely with representatives of other Federal agencies and State and local governments in providing guidance and assistance for the development of emergency operating capabilities. The primary objective is to make the citizens in the community better prepared to protect life and property in the event of a threatened or actual attack. The Agency accords first consideration to local community needs in the overall objectives of the national program.
b. The system recognizes that emergency preparedness needs and efforts necessarily vary with each level of organization; such as, the citizen, the community, the State, and the Nation. Through its conduct of seminars, on site assistance projects, and local association meetings, this Agency is able to assess and respond to consumer desires. Regional personnel are in the field working with State and local governments and local community organizations to respond to the needs of the people they represent.
c. Numerous publications are made available to the public through State and local Civil Preparedness Agencies, including a citizen's handbook "In Time of Emergency" in both English and Spanish, as well as films in both languages. In addition, a quarterly magazine "Foresight," which provides a forum for the exchange of information and ideas on civil preparedness throughout the United States, is available upon request from the Assistant Director for Information Services, Defense Civil Preparedness Agency, The Pentagon, Washington, D.C. 20301.
5. *Dissemination of Scientific and Technical Information.*
a. The DoD conducts a broad program of research, development, test and evaluation to provide an effective national defense capability. The results of the research, development, test and evaluation program have potential for use by the private sector, other Government agencies and State and local governments in the solution of critical domestic problems. The DoD makes this (unclassified) information available to the public through the Department of Commerce clearinghouse, known as the National Technical Information Service (NTIS). The NTIS announces and disseminates this information to the general public. In a similar manner, descriptions of ongoing research and development technology projects will be placed in the Smithsonian Science Information Exchange (SSIE), which makes them available to the general public.
b. The DoD, in cooperation with the Energy Research and Development Agency and the Department of Housing and Urban Development, intends to conduct demonstrations of solar heating systems in military family housing units and selected military resale facilities at various locations throughout the continental United States. The objective of these efforts is to provide early operational data and other applicable information in support of the National Solar Heating and Cooling Program under the Energy Research and Development Agency. Commercially available systems will be selected and tested. A prime goal is to demonstrate effectiveness in reducing energy consumption while maintaining quality architectural design. The results of the demonstration will be available for application in both military and civilian usage. Consumer comments concerning these programs should be provided to Office of Assistant Secretary of Defense (Installations and Logistics), Installations and Housing, The Pentagon, Washington, D.C. 20301. Information regarding these programs can be obtained from this same source.

B. CONSUMERS OF GOODS AND SERVICES OFFERED IN DOD ACTIVITIES

1. *Transmission of Consumer Suggestions.* a. Inherent in the military establishment are numerous procedures at the installation level which permit individuals to initiate views regarding their interest as consumers of goods or services offered by Defense-sponsored activities. It is here, in the military community, that likes and dislikes are first made known, corrective action taken, or referrals to higher levels accomplished. The accessibility of local assistance, however, does not preclude the use of other available channels of communications.
b. As a general principle, consumer suggestions and comments are to be analyzed and passed from appropriate advisory groups and staff elements to the decision level which may appropriately address the consumer input. It is at this point that suggestions or comments are integrated into the decision-making process. Affected elements are to use all reasonable techniques to ensure that consumer suggestions are encouraged and considered. Examples follow:
(1) Written correspondence from consumers,
(2) Direct contact by consumers with local responsible officials,
(3) Consumer participation conferences,
(4) Consumer advisory groups,
(5) Inspectors General interview and complaint systems,
(6) Sample surveys,
(7) Military community service organizations,
(8) In-store interviews,
(9) Patron purchase panels,
(10) Suggestion boxes,
(11) Customer "Want" slips.
2. *Evaluation.* Consumer participation in the evaluation of existing and proposed programs should begin at the local level. Various methods are available which allow a continuing assessment of existing procedures with a view toward development of appropriate changes. Examples include:
a. *"Consumer Voice" Meetings.* Local officials should periodically announce and conduct consumer-oriented meetings which solicit individual or collective opinion as to matters which affect consumers.
b. *Sample Surveys.* These should be designed to include the collection of relevant information concerning consumer attitudes toward existing policy and recommendations for new policy. Effective procedures to evaluate and act on these suggestions shall be developed.
c. *Questionnaires Distributed at Resale Sources.* These documents should articulate procedures and policies which affect consumers and be designed to solicit their views. Procedures shall be established to evaluate and act on recommendations.
d. *Inspectors General.* Consumer complaints received through this system are to be transmitted to the appropriate office for evaluation and appropriate action.
e. *Publication in* FEDERAL REGISTER. Proposed regulations which will affect consumers or the general public shall (a) be published in the FEDERAL REGISTER in accordance with DoD Directive 5400.9 (reference (h)) and DoD Directive 5400.7 (reference (i)); and (b) include the address to which consumer comments may be sent. Comments shall receive appropriate consideration. Final regulations shall also be published in the FEDERAL REGISTER.
3. *Communication to Consumers on Issues and Decisions.* In general, consumers can be made aware of issues and pending and final decisions which affect them through a variety of means, including: publication in the FEDERAL REGISTER, internally disseminated information, service press, local press, and legislative releases. Policies are normally promulgated by such means as directives, regulations and instructions. However, all available communications media should be used to keep consumers informed of relevant information.
4. *Feedback to Consumers About Their Comments.* Written comments from consumers receive a direct reply from the proper office. In addition, responsible local officials respond, as appropriate, to individual or group consumer suggestions presented in person. Furthermore, local commanders, or their representatives, participate in on base consumer group activities, such as personnel advisory councils and clubs, to discuss the development and status of consumer suggestions of general interest.
5. *Consumer Education.* a. A myriad of information *activities* can contribute to the continuing efforts of DoD to educate consumers. Examples include commanders' calls, telephone and installation newspapers, "hotlines," books, pamphlets, fact sheets and films, and installation newspapers.
b. DoD Components shall use, to the maximum practical extent, the consumer common interest material made available by the Office of Information for the Armed Forces (IAF) and shall develop appropriate supplementary material to ensure viable consumer education programs.

6. *Specific Considerations for Certain Activities.* a. *Personal Commercial Affairs.* DoD Components shall implement procedures concerning consumer interest relating to commercial activity on DoD installations in accordance with DoD Directives 1344.7, 1344.1 and 1344.9 (references (j), (k) and (l)). Consumer suggestions relating to these matters and other areas of general consumer interest will be provided to the DoD Components' representative to the DoD Personal Commercial Affairs Board which makes policy recommendations in these areas.

b. *Recreational Activities.* A variety of recreational services including clubs and messes, athletic facilities, movie theaters, craft shops, and similar activities exist on military installations. Appropriate steering groups or advisory councils should be established to make consumer views regarding these activities known to local responsible officials.

c. *Housing.* Personal preferences surveys of military personnel and their families are undertaken to aid in setting the direction of the DoD Family and Bachelor Housing Program.

d. *Transportation.* The Carrier Evaluation and Reporting System requires the consumer to provide information on the quality of the service provided by the carrier. This information is incorporated in the numerical rating of carriers which determines the amount of future DoD business they will receive. Thus, the consumer input encourages carriers to improve service, monitors the performance of agents, and helps provide properly managed, effective movement of household goods belonging to DoD personnel.

e. *Legal Assistance.* The Offices of the Judge Advocates General of the Military Departments, through the medium of legal assistance officers at the installation levels, provide appropriate advice to consumers. Patterns of unethical or illegal business practices by specific merchants are identified by receipt of specific consumer complaints.

f. *Health Programs.* (1) The excellence of inpatient and outpatient care and services provided by DoD medical facilities is of continuing interest to the DoD. Periodic patient surveys designed to solicit views regarding the adequacy of care (including ethics, aesthetics, timeliness, overall satisfaction, and appropriate avenues for redress), shall be conducted. Appropriate advisory groups are to be established to provide consumer comments concerning medical care to local responsible officials.

(2) The Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) reimburses beneficiaries and provides for services rendered to eligible individuals by civilian health care providers. Opportunities are provided for beneficiaries and providers to request reconsideration of adverse decisions such as eligibility to participate in the CHAMPUS, coverage exclusions, and amounts paid. Communications received from participants in CHAMPUS assist program managers to monitor the effectiveness and quality of the program. Information regarding this program shall be disseminated by health benefit counselors at each DoD operated medical facility.

g. *Military Resale Facilities.* As a minimum, affected DoD Components shall require the establishment of:

(1) A Quality Assurance and Hazardous Merchandise Program, to maximize patron satisfaction with goods and services offered by military resale facilities. Through close liaison with regulatory protective agencies, potentially hazardous or poor quality merchandise will be identified and purged from the system; resale facilities will be alerted to the existence and disposition of all such merchandise. Appropriate information regarding this program will be provided to patrons.

(2) Consumer attitude surveys, to generate information regarding levels of satisfaction with service and merchandise selection, quality and price. Responses to the surveys should also provide statistical evidence of customer perceptions concerning shopping privileges and how they contribute to the morale of eligible personnel and their families.

(3) Advisory councils, to voice customer attitudes that are prevalent on military installations. Minutes of meetings shall be forwarded to the appropriate headquarters; opinions and recommendations received shall be acted upon to assure that necessary corrective action is taken to improve customer service.

(4) A Direct Communication Program, inviting customers to offer their opinions to the local facility manager and/or installation commander. Communication will be accomplished through all available mechanisms including suggestion boxes, want slips, and telephone "hotlines." Appropriate officials shall review comments and respond to assure customer satisfaction. Comments that cannot be answered locally shall be forwarded to the appropriate headquarters for response to assure that customer satisfaction is met to the maximum practical extent.

(5) Consumer newsletters, to provide information about new merchandise, "best buys," operating hours, policies and procedures.

(6) Adequate consumer identified mechanisms, at appropriate headquarters, to regularly review documents, reports, and other information which may be useful to consumers. This information shall be available for review upon request from consumers or higher authority.

Appendix A.—Results of Public Meetings Concerning the Department of Defense Consumer Representation Plan

The Department of Defense participated in White House Public Meetings regarding Consumer Representation held in Chicago, Illinois; Atlanta, Georgia; and San Francisco, California, between January 13 and 29, 1976, and the hearing on this subject held in Washington, D.C. on February 25, 1976.

Verbatim transcripts of the Department of Defense workshops conducted at the three Public Meetings were prepared and are available in Room 3C980, the Pentagon. Rather than focus on the proposed Department of Defense Plan, the questions and subsequent discussions in these workshops primarily centered on various controversial Defense programs and projects, e.g., the Defense budget, the B–1 bomber program, certain Corps of Engineers Civil Works projects, etc. No one appeared at the hearings held in Washington, D.C. to present testimony or comments concerning the Department of Defense proposed plan.

Appendix B.—References

(a) DoD Directive 5030.48, "Consumer Product Information Program," June 16, 1971.
(b) National Environmental Policy Act (NEPA) of 1969, as amended.
(c) DoD Directive 6050.1, "Environmental Considerations in DoD Actions," March 19, 1974.
(d) DoD Directive 5410.12, "Economic Adjustment Assistance to Defense-Impacted Communities," April 21, 1973.
(e) DoD Directive 1400.20, "DoD Program for Stability of Civilian Employment," August 13, 1971.
(f) DoD Directive 5100.54, "Homeowners Assistance Program," December 29, 1967.
(g) DoD Directive 5105.43, "Defense Civil Prepardness Agency (DCPA)," July 14, 1972.
(h) DoD Directive 5400.9, "Publication of Proposed and Adopted Regulations Affecting the Public," December 23, 1974.
(i) DoD Directive 5400.7, "Availability to the Public of Department of Defense Information," February 14, 1975.
(j) DoD Directive 1344.7, "Personal Commercial Affairs," July 1, 1969.
(k) DoD Directive 1344.1, "Solicitation and Sale of Insurance on Department of Defense Installations," January 21, 1972.
(l) DoD Directive 1344.9, "Indebtedness of Military Personnel," July 1, 1969.

(Copies of references are available for review in Room 3C980, The Pentagon.)

Appendix C.—Focal Point for Consumer Representation Plan at the Department of Defense

OFFICE OF THE SECRETARY OF DEFENSE

The Secretary of Defense

Assistant Secretary of Defense Manpower and Reserve Affairs

Consumer Representation Program Coordinator [1]

[1] Primary consumer contact.

DEPARTMENT OF STATE

Consumer Representation Plan

PRIMARY CONSUMER CONTACT

Consumer Coordinator and Special Assistant to the Under Secretary for Economic Affairs, Room 7245A, Department of State, Washington, D.C. 20520, Telephone: (202) 632–9818.

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EXECUTIVE SUMMARY

In response to President Ford's Directive of April 1975, the Department of State published a proposed Plan in the FEDERAL REGISTER of November 26, 1975, and subsequently created the job of Consumer Coordinator and Special Assistant to the Under Secretary for Economic Affairs.

The Plan has now been revised to be more precise and to reflect the comments from a wide spectrum of consumer organizations and spokesmen.

It provides for a consumer affairs official within each bureau. The Coordinator will establish an exchange of information with consumers, and arrange appropriate contacts between Department officials and consumer interests. A Consumer Advisory Committee will be established, and consumer representatives will be included on certain existing advisory committees. Provision is made for analyses of consumer impact of Department actions, and clearance of memoranda by the Coordinator or bureau consumer affairs officials.

I. PURPOSE

The purpose of this Consumer Representation Plan is to ensure that no trade, tariff, economic, monetary or other policy affecting the flow of goods or services into or out of the United States is adopted or approved by the Department of State unless and until all officers involved in the decisionmaking process have answered the question: How will the policy affect the United States consumer? The Plan is intended to ensure that consumer interests are identified and articulated at a sufficiently early stage in the decisionmaking process so that they will effectively influence policy determinations. In this manner United States consumer concerns will be fully considered by the key decisionmakers and will be included in the policy development process of the Department.

II. AFFECTED BUREAUS AND OFFICES

All bureaus and offices within the Department will be subject to the requirements of the Plan. (See Organization Chart—Appendix A.) Those principally affected will be the Office of the Under Secretary for Economic Affairs, the Bureau of Economic and Business Affairs, the Bureau of Oceans and International Environmental and Scientific Affairs, and the Bureau of Security and Consular Affairs (including the Passport Office).

III. CONSUMER AFFAIRS COORDINATOR

The function of the Consumer Affairs Coordinator shall be to ensure to the best of his or her ability that consumer interests are articulated at an early stage in the decisionmaking process so that policy determinations will be made in a manner consistent with the purpose of the plan.

The Coordinator shall be a Special Assistant to the Under Secretary for Economic Affairs and shall report to the Under Secretary for Economic Affairs and, through him, to the Deputy Secretary and the Secretary of State.

The Consumer Affairs Coordinator will be responsible for the implementation of this Plan. The Coordinator will review proposed policy decisions and recommendations from the point of view of the consumer, and will provide advice, assistance, and guidance in the preparation of the consumer impact analyses referred to in Part V. The Coordinator will also encourage public discussion of Department decisions and recommendations, will take steps to facilitate the submission of views by consumer representatives to the Department, and will assure that the various advisory committees to the Department take into account the consumer point of view. Specifically, the Coordinator will do the following:

1. Establish an ongoing exchange of information through regular and ad hoc meetings. At the outset the Coordinator will schedule regular meetings with consumer groups and representatives on a quarterly basis, with notice being given in the FEDERAL REGISTER. Ad hoc meetings will be scheduled at the request of any consumer group or representative which wishes to raise a particular problem of consumer concern with the Department.

These meetings will be open to the public and any interested person will be able to comment on any matter relevant to consumer interests. Furthermore, in those cases where there is adequate time available prior to a decision and where the demand of confidentiality permits, the Department may schedule a public hearing or meeting, which will be announced in the FEDERAL REGISTER, where views on a specific matter before the Department, such as a particular proposed treaty, may be aired.

2. The Coordinator will also take steps to see that consumer groups and representatives are placed in contact with an appropriate official of the Department with responsibility for the subject matter involving the particular problem or problems of interest to those groups or representatives. The Coordinator will also bring to the attention of the appropriate officials of the Department information received or developed in the course of the regular exchange of information with consumer groups and representatives. (Whenever possible, taking into account demands of confidentiality and timing, discussion of specific policies of significant concern to consumers should occur before the policies have been finally determined.)

3. Establish promptly a Consumer Advisory Committee which shall meet periodically to advise the Secretary through the Consumer Coordinator.

The Advisory Committee will consist of representatives of a range of consumer interests, geographically as well as functionally balanced. The Advisory Committee will be charged with responsibility to advise the Coordinator on State Department procedures for receiving and utilizing advice regarding consumer interests, as well as providing advice on the particular issues involving consumer interests that are presented to the Advisory Committee by the Consumer Coordinator.

4. Ensure that consumers are well represented on other advisory committees of the Department if such committees deal with important issues of concern to the consumer.

The Advisory Committees now existing in the Department which deal with important issues of concern to the consumer include:

Advisory Committee on International Intellectual Property.
Advisory Committee on the Law of the Sea.
Advisory Committee on Private International Law.
Advisory Committee on Transnational Enterprises.
Shipping Coordinating Committee.

A representative of consumer interests will be represented on each of these Advisory Committees.

5. Collect and analyze data, correspondence, news articles, and other written materials which deal with the interests of consumers, which are relevant to consumer related decisions of the Department.

This material will be processed by the Office of the Coordinator and furnished to the appropriate offices of the Department for use in discharging the responsibilities set forth in Part V below.

6. Make public appearances before a wide range of audiences and ask that other Department officials concerned with substantive issues relevant to consumers also make appearances.

The Consumer Coordinator will also work with Department officials with relevant expertise to assure that Congressional committees, members of Congress, and their staffs are informed on how foreign policies affect consumers.

The Coordinator will recommend Department policy on consumer issues to the Secretary through the Under Secretary for Economic Affairs and will assist in the implementation of such policy to the extent required in international organizations and through diplomatic posts abroad.

The Coordinator will prepare an Annual Report on the implementation of this Plan for the Secretary.

Finally, the Consumer Coordinator will serve as the Department's liaison with consumer groups, consumer representatives of other Departments, and the Office of the Special Assistant to the President for Consumer Affairs.

IV. Bureau Consumer Affairs Official

Within each bureau there will be a consumer affairs official designated at the Office Director or equivalent level. That official will be responsible for the implementation of this Plan within his bureau. He will review proposed policy decisions and recommendations initiated by that bureau from the point of view of the consumer, and will assure that the consumer impact analysis referred to in Part V is properly prepared. He will also furnish advice and assistance to the Consumer Affairs Coordinator and be responsible for such consumer related efforts as may be developed from time to time within the bureau and for coordination with other bureaus and the Consumer Coordinator as appropriate.

V. Consumer Impact Analysis and Clearances

The procedures set forth in this section shall apply to every memorandum recommending action which, if implemented, would have a direct and major impact on United States consumers.

Any such document shall contain an analysis of the consumer impact of the recommendations or proposals included in the document.

Any such document shall be cleared with the consumer affairs official of the initiating bureau and, in important cases (as determined by the consumer affairs official of the initiating bureau), the Consumer Affairs Coordinator. All such documents for action by a principal of the Department shall be cleared by the Consumer Coordinator.

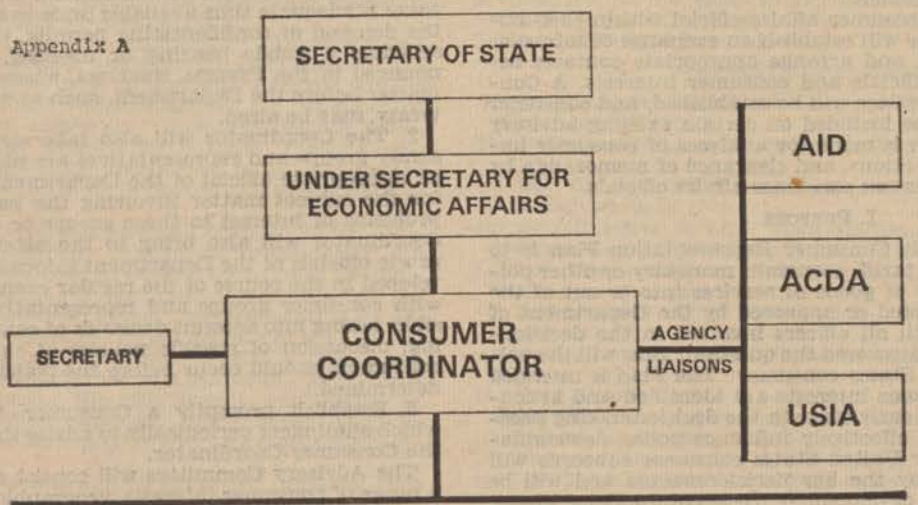
VI. Relations With Public

Persons who wish to address matters of consumer interest to the Department are urged to communicate with the Office of the Consumer Coordinator, Department of State, Washington, D.C. 20520.

The office will develop a mailing list of concerned organizations and individuals and will communicate with them from time to time.

Appendix

Appendix A



C - Counselor of the Department
T - Under Secretary for Security Assistance
D - Office of the Deputy Secretary
M/MO - Director of Management Operations
IGA - Inspector General of Foreign Assistance
S/P - Policy Planning Staff
S/IG - Inspector General, Foreign Service
H - Congressional Relations
PM - Bureau of Politico-Military Affairs
PA - Bureau of Public Affairs
L/EB - Legal/Bureau of Economic & Business Affairs
AF - Bureau of African Affairs
EA - Bureau of East Asian & Pacific Affairs
EUR - Bureau of European Affairs
NEA - Bureau of Near Eastern & South Asian Affairs
EB - Bureau of Economic & Business Affairs
CU - Bureau of Educational & Cultural Affairs
INR - Bureau of Intelligence & Research
IO - Bureau of International Organization Affairs
OES - Bureau of Oceans & International Environmental & Scientific Affairs
SCA - Bureau of Security & Consular Affairs
A - Bureau of Administration
ARA - Bureau of Inter-American Affairs (State) Bureau for Latin American (AID)

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federal register

TUESDAY, SEPTEMBER 28, 1976



PART III:

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

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FEDERAL CONSISTENCY WITH APPROVED COASTAL ZONE MANAGEMENT PROGRAMS

Proposed Regulations

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR Part 921]

FEDERAL CONSISTENCY WITH APPROVED COASTAL ZONE MANAGEMENT PROGRAMS

Proposed Regulations

In the matter of policies and procedures for implementing the Federal consistency requirements of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451, et seq. (section 307).

The National Oceanic and Atmospheric Administration (NOAA) hereby proposes to adopt regulations pursuant to the Coastal Zone Management Act of 1972, as amended, (16 U.S.C. 1451, et seq.), hereinafter referred to as the "Act", for the purpose of providing coastal States, Federal agencies and other interested parties with the policies and procedures which NOAA will require for implementation of the Federal consistency provisions of the Act. Specifically, the contents of these proposed regulations include directives for carrying out the Federal consistency requirements within sections 307 (c) through (h) of the Act.

Section 307 (a) and (b) interim regulations for Federal/State coordination during coastal zone program development were published in the FEDERAL REGISTER on February 28, 1975 (40 FR 8546). NOAA has received several comments regarding the interim regulations, and their final modified version will be published at such time as these proposed regulations become final. The statutory provisions within sections 307 (c), (d) and (h) are fully set forth below and the Federal consistency procedural regulations in Subpart B shall specifically address these sections. The provisions within sections 307 (e) and (f) of the Act, also set forth below, will not be directly referenced within the procedural regulations. The language of these provisions speaks for itself and the requirements thereunder are implicitly incorporated within the proposed regulations.

Section 307(c)(1) of the Act provides:

Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

Section 307(c)(2) of the Act provides:

Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.

Section 307(c)(3) of the Act, which was amended by the Coastal Zone Management Act Amendments of 1976 (Pub. L. 94–370, 90 Stat. 1013) provides:

(A) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

(B) After the management program of any coastal state has been approved by the Secretary under section 306, any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land use or water use in the coastal zone of such state, attach to such plan a certification that each activity which is described in detail in such plan complies with such state's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such state or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and until—

(i) Such state or its designated agency, in accordance with the procedures required to be established by such state pursuant to subparagraph (A), concurs with such person's certification and notifies the Secretary and the Secretary of the Interior of such concurrence;

(ii) Concurrence by such state with such certification is conclusively presumed, as provided for in subparagraph (A); or

(iii) The Secretary finds, pursuant to subparagraph (A), that each activity which is described in detail in such plan is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

If a state concurs or is conclusively presumed to concur, or if the Secretary makes such a finding, the provisions of subparagraph (A) are not applicable with respect to such person, such state, and any Federal license or permit which is required to conduct any activity affecting land uses or water uses in the coastal zone of such state which is described in detail in the plan to which such concurrence or finding applies. If such state objects to such certification and if the Secretary fails to make a finding under clause (iii) with respect to such certification, or if such person fails substantially to comply with such plan as submitted, such person shall submit an amendment to such plan, or a new plan, to the Secretary of Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under subparagraph (A) is 3 months.

Section 307(d) of the Act provides:

State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

Section 307(h) of the Act, which was added to the Act by Pub. L. 94–370, provides:

In case of serious disagreement between any Federal agency and a coastal state—

(1) In the development or the initial implementation of a management program under section 305; or

(2) In the administration of a management program approved under section 306;

The Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement. The process of such mediation shall, with respect to any disagreement described in paragraph (2), include public hearings which shall be conducted in the local area concerned.

Section 307(e) provides:

Nothing in this title shall be construed—

(1) To diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) As superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

Section 307(f) provides:

Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) Established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) Established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be

the water pollution control and air pollution control requirements applicable to such program.

INTRODUCTION

These regulations are being proposed for timely adoption for a number of reasons. First of all, the coastal zone management program for the State of Washington has been approved by the Secretary of Commerce. Other State management programs, or segments thereof, have been submitted for review and approval. Additional States or segments thereof are scheduled for program submission in the near future and many coastal States are entering into their final year of program development. Accordingly, the Federal Coastal Zone Management Program is rapidly moving into a program approval and administration phase which, in turn, requires that immediate attention be given to the Federal consistency requirements of the Act which become applicable following State program approval.

The need to immediately address the policies and procedures for effectuating the consistency requirements of the Act has been further highlighted as a result of comments which have been received by the Office of Coastal Zone Management (OCZM) concerning the adequacy of the State of Washington's efforts to implement the consistency requirements of the Act. In addition, NOAA, OCZM, relevant Federal agencies and the State agencies submitting advanced management programs have determined that it is essential that such programs incorporate a framework for carrying out the Act's consistency provisions so that all parties concerned are cognizant of their respective obligations. Accordingly, the necessity for timely promulgation of the consistency regulations has a multiple basis, namely, to assure that approved State programs satisfy the legal requirements for implementing the consistency provisions of the Act and to provide relevant Federal agencies and individuals with the guidelines and procedures which the States will use to carry out the consistency element of the programs.

(1) *The Context of Federal Consistency Within the Coastal Zone Management Act.* There are a number of substantive and process-related policies and procedures in the Act and in the regulations promulgated thereunder which form the context within which the Federal consistency requirements must be viewed. These underpinnings are set forth at this point as a necessary basis for understanding the proposed procedures developed in Subpart B.

(A) *Federal/State Responsibilities.*— Reciprocal responsibilities governing the development of coastal zone management programs represent the foundation which supports the basis for Federal/State consistency during program administration.

(i) Under the Act, States must provide relevant Federal agencies with an opportunity for full participation in program development (Section 306(c)(1)); demonstrate that the views of Federal agencies principally affected by the program have been adequately considered (Section 307(b)); give adequate consideration the national interest involved in the planning for and siting of facilities necessary to meet requirements which are other than local in nature (Section 306(c)(8)); assure that local land and water use regulations do not unreasonably restrict or exclude uses of regional benefit (Section 306(e)(2)); incorporate into the management program the requirements of the Federal Water Pollution Control Act, as amended, and the Clean Air Act, as amended (Section 307(f)); coordinate the coastal zone management program with relevant plans, many of which are guided and supported by relevant Federal agencies (Section 306(c)(2)); and participate with Federal agencies in the mediation of serious disagreements should they arise (Section 307(h)).

(ii) At the same time, relevant Federal agencies are directed by the Act to participate with State and local governments in furthering the purposes of the Act (Section 303(c)); cooperate with the States in developing land and water use programs for the coastal zone (Section 302(h)); assume key responsibility for communicating national views (as a matter of agency authority, interest and expertise) (Section 307(a)); take the opportunity to review and comment on management programs prior to approval (Section 307(b)); and participate with States in the mediation of serious disagreements should they arise (Section 307(h)).

It is clear from these reciprocal responsibilities that the early development of effective Federal/State efforts at cooperation is the key element in the coastal zone management planning process that must precede activation of the Federal consistency provisions. Sections 305, 306 and 307 of the Act are elements of a continuing process, and not discrete requirements to be met and considered final. Accordingly, the program development and implementation phases of coastal zone management must be viewed as a continuum.

In the program development stage, the States must emphasize the development of an ongoing capability to provide consultation and coordination with relevant Federal agencies in order to gain an opportunity to incorporate greater than local land and water use considerations into State programs. This effort should include procedures for resolving disputes with Federal agencies. These coordination and conflict resolution mechanisms need to be carried over after program approval.

In the program administration stage, the Act directs that, subject to qualification, Federal actions be consistent with approved programs. This is a unique legal requirement that is clearly workable in light of the opportunities for Federal agencies to provide input into program development, thereby assuring that national viewpoints, as well as State and local views, are addressed within coastal zone programs. By virtue of these reciprocal benefits and obligations, both the interests of the Federal and State governments will be accommodated in the management programs for the Nation's coastal zone.

2. *Preliminary Review and Commentary on Federal Consistency Issues.*— Prior to the publication of these proposed regulations in the FEDERAL REGISTER, OCZM circulated a preliminary draft of the regulations to selected reviewers for comment. The reviewers included coastal State agencies, relevant Federal agencies, and additional interested parties. Numerous comments, both in written and oral form, were received by OCZM in response to this effort. The responses addressed both substantive and procedural aspects of the proposed regulations. All comments were given full consideration by NOAA. Some views were adopted in their entirety and some in modified form. Others were rejected as being inappropriate or legally impermissible. NOAA and OCZM would like to take this opportunity to express our gratitude to each government agency, organization and individual that submitted written or oral comments on the preliminary draft. In order to respond to some of the more significant comments received, there follows a brief discussion of the pertinent sections of the proposed regulations.

(A) *General Remarks.* There were substantial conflicts and variations among the reviewer responses. In general, a major dichotomy in viewpoints developed as a result of the fact that the comments represented the concerns of two communities of interest, namely, the Federal agency community and the State/local government community. The Federal agencies in many instances perceived a threat to their national mission objectives should States be permitted to frustrate Federal programs by virtue of the consistency requirements of the Act. Accordingly, the Federal community responses reflected a narrow view of the scope and impact of the consistency provisions. The State/local government community indicated a general concern with what it perceived as a Federal agency's effort to weaken and undermine the coverage of the consistency requirements, thereby diluting the effectiveness of State coastal zone management programs. Accordingly, the latter community requested comprehensive and operational tools for enforcement of the consistency requirements. On a united front, all parties expressed major concern with the prospect of additional administrative burdens being necessitated as a result of the requirement of implementing the consistency provisions of the Act.

In the specific remarks provided below, and in the proposed regulations, NOAA intends to explicitly state its interpretation of the Federal consistency provisions of the Act. In this regard, we shall point out what the Federal consistency provisions require and what they do not require. In addition, we shall attempt to clearly set forth the responsibilities of all agencies and indivduals who are involved in the process of complying with the consistency requirements of the Act. As a result of this effort, we hope to remove any existing uncertainties regard-

ing the benefits and burdens of the Federal consistency provisions of the Act.

Before addressing the review comments, one additional point requires discussion. Section 304(1) of the Act provides in part:

> Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

During the development of State coastal zone management programs, a number of questions arose regarding which Federal lands were to be excluded from a State's coastal zone. NOAA requested an opinion on the matter from the U.S. Attorney General. On August 10, 1976, the Office of Legal Counsel, U.S. Department of Justice, rendered an opinion concluding that "the exclusionary clause excludes all lands owned by the United States from the definition of the Coastal Zone."

NOAA has not as yet had adequate time, nor the benefit of interested parties' comments, to fully evaluate the impact of this opinion as it relates to the Federal consistency provisions of the Act. We do note at this time that on page 12 of the Conference Report on the original Act, H.R. Rept. No. 92–1544, 92nd Congress, 2nd Session (1972), accompanying S. 3507, the following was stated:

> The Conferees also adopted the Senate language in this section which made clear that Federal lands are not included within a State's coastal zone. *As to the use of such lands which would affect a State's coastal zone, the provisions of section 307(c) would apply.* (Emphasis added.)

It is clear from this statement that Congress intended the Federal consistency provisions to apply to excluded Federal lands notwithstanding their absence from the "coastal zone." NOAA welcomes comments with regard to this issue.

(B) *Specific Remarks.* These remarks concerning the comments received from reviewers will generally follow the sequence of the provisions within Section 307 of the Act.

(i) *Sections 307(c)(1) and (2).*—(a) There were a number of comments regarding the question of where initial responsibility rested with respect to making the consistency determination for Federal activities including projects. NOAA construes the Act as imposing this responsibility on the Federal agencies, and the proposed regulations reflect this view.

We point out that this will be a difficult task for the Federal agencies unless they are provided with clear policies and standards with which to evaluate the consistency of their activities including projects. Therefore, the States are obligated to assure that their program structure and provisions are clear and easily interpretable. In order to ensure that Federal agencies have an adequate basis for making an initial consistency assessment, the regulations direct that Federal and State agencies jointly develop from approved programs a set of criteria and guidelines which the Federal agencies can use to judge the consistency of their proposed actions.

(b) Many reviewers pointed out that while the Federal agencies were the proper entities for making the intial consistency review for Federal activities including projects, that responsibility was coupled with the additional responsibility to notify State agencies of the consistency determination so that the latter group would have an opportunity to review the decision. It was noted that it would be very difficult for State agencies to keep apprised of Federal actions without direct notification from the Federal agencies, and that if the burden rested solely with the States, instances would undoubtedly arise where actions would not be discovered until they were already undertaken. Such results would effectively frustrate opportunities for early coordination to assure consistency. NOAA has concluded that the Federal agencies are in the best position to provide early notification to the States of their proposed activities including projects; furthermore, implicit in the States' right to disagree with a Federal agency's consistency determination is the right to be informed of such determination. Accordingly, the regulations require Federal agencies to notify State agencies of proposed activities directly affecting the coastal zone, including development projects within the coastal zone, at the earliest practicable time.

(c) Having determined that the Federal agencies were properly required to provide notification to the State agencies regarding the consistency of proposed actions, the next issue addressed by many reviewers concerned the administrative burden created by such a requirement. In this regard, the proposed regulations encourage the Federal and State agencies to rely upon existing intergovernmental coordination procedures, particularly the OMB Circular A–95 (revised) notification and review system. See 41 FR 2052 (1976). Two points require emphasis, however. First, the A–95 process is beneficial because both Federal and State agencies are familiar with the process, it provides a basis through the development of memoranda of understanding to classify types of individual activities and projects requiring review, and reliance upon an existing coordination procedure will avoid waste and duplication of effort. On the other hand, we point out that while the Act implicitly requires the Federal agencies to notify the States of activities directly affecting the coastal zone including development projects within the coastal zone, the A–95 process would merely encourage such cooperation. Some reviewers have pointed out that a number of Federal agencies either do not follow the A–95 guidelines or do so in a limited fashion. Accordingly, the proposed regulations permit reliance upon the A–95 and other existing notification and review procedures but only if they are modified or supplemented to assure that the States are fully informed of all relevant actions subject to consistency review.

(d) Sections 307(c)(1) and (2) require that relevant Federal activities including projects be, "to the maximum extent practicable," consistent with approved States management programs. Practically all reviewers expressed some dissatisfaction with the manner in which this term was defined in the preliminary draft. Generally, Federal agencies urged that the phrase be broadly defined in order to permit wider discretion to Federal agencies to avoid complete adherence with approved State programs. Not surprisingly, the State comments generally reflected a position that the phrase be narrowly construed in order to prevent the creation of a significant loophole through which Federal agencies could ignore approved State program requirements.

Fortunately, there is some legislative history on this point on which NOAA has relied in its effort to properly define the phrase. Congress noted that inasmuch as Federal agencies are given a full opportunity to participate in the planning process for program development, these agencies would thereafter be required to carry out their actions in a manner consistent with approved programs. However, Congress recognized that some circumstances, not foreseeable at the time of program development and approval, could arise which might present a Federal agency with a significant obstacle that, as a practical matter, would prevent complete adherence to the approved program. Accordingly, Congress determined that for these exceptional situations some leeway should be provided to Federal agencies, but added that it was not anticipated that there would be many situations where Federal agencies would be compelled to undertake activities or projects which deviated from approved program requirements. Therefore, following the spirit of congressional intent, NOAA has narrowly defined the term "to the maximum extent practicable," to permit deviations from State programs when justified by unforeseen circumstances which compel nonadherence to an approved program.

(e) Many Federal agencies expressed concern that the preliminary draft regulations did not carefully adopt what might be termed the "causal" language within the consistency provisions, namely, that activities "directly affecting" including development project "in" the coastal zone were the only Federal actions subject to being consistent to the maximum extent practicable with an approved program. Additionally, the Federal agencies were generally dissatisfied with our initial attempt at defining the terms "affecting" and "directly affecting." In response to these criticisms, NOAA has done the following. First, the language of the proposed regulations will adopt the "causal" terms of the Act. Furthermore, no attempt will be made to define the meaning of "affecting" or "directly affecting"—these terms will speak for themselves and difficulties will be addressed on a case by case basis.

Some discussion, however, is required at this point to inform all parties as to how NOAA construes the Act with regard to the causal language in the Fed-

eral consistency provisions. NOAA has concluded that Congress intended the term Federal "activities" within Section 307(c)(1) to encompass Federal "development projects" referred to within section 307(c)(2). Accordingly, Federal activities including Federal development projects "directly affecting" the coastal zone must be consistent, to the maximum extent practicable, with approved State management programs.

NOAA is aware that section 307(c)(1) speaks in terms of Federal activities "directly affecting" the coastal zone while section 307(c)(2) refers to development projects "in" the coastal zone. NOAA concludes that the latter provision emphasizes a congressional determination that all development projects in the coastal zone are subject to the consistency requirements. That is, Congress has determined that all development projects in the coastal zone must, by their nature, "directly affect" the coastal zone. That provision is not a directive that development projects be treated differently from other activities directly affecting the coastal zone.

Prior to amendment of S. 3507 by the Conference Committee (see the Conference Report citation above), the Federal consistency provisions of the bill read as follows:

(1) All Federal agencies conducting or supporting activities in the coastal zone shall administer their *programs* consistent with approved coastal State management programs except in cases of overriding national interest as determined by the President. Procedures provided for in regulations issued pursuant to [the Cities and Metropolitan Development Act and the Intergovernmental Cooperation Act] shall be applied in determining whether *Federal projects and activities* are consistent with approved management programs. (Emphasis added.)

(2) Federal agencies shall not undertake any development project in the coastal zone of a coastal State which, in the opinion of the coastal State, is inconsistent with the management program of the coastal State unless the Secretary overrides the objection.

On page 19 of Senate Report No. 92-753, 92nd Congress, 2nd Session (1972), accompanying S. 3507, the Senate Committee on Commerce stated that "it is essential that Federal agencies administer their *programs, including development projects*, consistent with the State's coastal zone management program." (Emphasis added.)

In the version of the bill finally enacted into law, the term "programs" was substituted with the synonymous term "activities," and the explicit prohibition against Federal agencies undertaking a development project following a State agency objection was substituted with language similar to that applicable for all other Federal activities. The discussion in the Conference Report on page 14 (citation above) points out that the Conferees considered the final language adopted to still include development projects under the coverage of activities. The Conferees agreed that,

> * * * as to Federal agencies involved in any activities directly affecting the State coastal zone and any Federal participation in development projects in the coastal zone, the Federal agencies must make certain that their *activities* are to the maximum extent practicable and consistent with approved State management programs. In addition, similar consideration of State management programs must be given in the process of issuing Federal licenses or permits for activities affecting state coastal zones." (Emphasis added.)

It is clear that the highlighted reference to "activities" refers back to development projects since the maximum extent practicable requirement applies to such actions, and there is no separate maximum extent practicable consistency discussion for development projects. Finally we note that in the final version of the bill, Congress used the term "activities" and the term "projects" interchangeably with regard to the review of Federal assistance actions in section 307(d).

NOAA concludes that the intent behind the final revisions of the bill was not to remove projects from the requirements respecting other Federal activities, but rather the intent was to eliminate the explicit prohibition in S. 3507 against undertaking development projects following agency objection, and substitute therefor an emphatic statement indicating that all development projects "in" the coastal zone would, by virtue of this type of activity's inherently significant nature and impact, "directly" affect the coastal zone and must therefor be consistent to the maximum extent practicable with approved State management programs. NOAA concludes that this interpretation of the Federal consistency provisions effectuates Congress' intentions, as expressed in the Senate and Conference Reports cited above, regarding the promotion of Federal consistenty with approved State management programs, and is compatible with the language of the Act.

Having discussed NOAA's interpretation of these provisions, we now turn to some points concerning NOAA's requirements for administering the provisions. A few reviewers have indicated some concern respecting methods for assuring that Federal activities, including development projects, outside of the coastal zone which directly affect the coastal zone will be consistent to the maximum extent practicable with approved State management programs. Some reviewers were concerned with the possibility that State agencies would not receive any notification from Federal agencies in those instances where a Federal agency concluded that an activity did not "directly" affect the coastal zone and, therefore, required no measure of consistency with a management program. The reviewers requested that the Federal agencies provide State agencies with something comparable to a National Environmental Policy Act "negative declaration" statement indicating that the Federal consistency requirements of the Act did not apply to the subject activity. This notification would provide State agencies with an opportunity to review the Federal agency's determination.

In response to these comments, the regulations provide that whenever a proposed Federal activity is to be undertaken adjacent or in close proximity to the coastal zone (the area outside of the coastal zone where an activity could most likely directly or significantly affect the coastal zone), Federal agencies shall notify State agencies of Federal consistency determinations which conclude that the proposed activity will not directly affect the coastal zone. Implementation of this notification procedure can be easily accomplished by incorporating "adjacent or in close proximity to" coastal zone activities among those other activities which the Federal and State agencies determine should be subject to the notification requirements of these regulations.

(f) A number of State reviewers urged NOAA to require Federal agencies to cease action on proposed activities including projects directly affecting the coastal zone which the State agencies determined would not be consistent to the maximum extent practicable with the State's program. While the Act prohibits approval of Federal license and permit activities as well as Federal assistance programs in the event of an objection by the State agency, no similar directive is provided with respect to Federal activities including projects under dispute. Therefore, NOAA cannot require cessation of action in these instances. However, we strongly encourage Federal agencies not to proceed with an activity after notification by the State agency that it disagrees with the Federal agency's consistency determination. As a practical matter, continued action may simply invite judicial intervention enjoining such action pending resolution of the disagreement by the parties or by the Secretary of Commerce in the event the conflict reaches the stage of being a "serious disagreement" subject to Secretarial mediation. We further point out that the whole purpose for having Federal agencies provide State agencies with notification at the earliest practicable time is to permit sufficient lead time to resolve differences before the contemplated date scheduled for initiation of the proposed action.

(g) At the time comments were solicited and received on the preliminary draft of the regulations, the Coastal Zone Management Act Amendments had not as yet been enacted. Prior to their enactment, a Secretarial mediation function was only provided for the settlement of serious disagreements which arose during program development. (That provision has now been deleted from Section 307(b) and incorporated into Section 307(h) of the Act.) The new amendments now provide for the mediation of serious disagreements which arise during the administration of a management program (Section 307(h)). We point out this new development in response to a number of reviewer comments suggesting that there was no role for the Secretary to play with regard to resolving disagreements concerning the

consistency of Federal activities including development projects and, therefore, the only party recourse in the event that informal resolution failed was judicial appeal. Congress, however, has now explicitly directed the Secretary of Commerce to seek to mediate serious disagreements during program administration. The following outline describes the procedural sequence envisioned for the settlement of disagreements regarding the consistency of Federal activities including projects with approved State programs.

(1) Following a State agency's disagreement with a Federal agency's consistency determination, the parties are encouraged to informally resolve their differences. OCZM will be available upon request to assist the parties in their negotiation efforts.

(2) After a minimum period of time, either party may invoke the Secretarial mediation process if it believes that a serious disagreement exists. Three points require emphasis here. First, the minimum period is provided to encourage the parties to make a good faith effort to informally settle their differences. Second, the minimum period is a floor criteria and not a ceiling standard—that is, the parties may not invoke Secretarial review prior to termination of the minimum period, but they may continue their informal negotiations for as long as they desire after the period expires. Finally, NOAA strongly emphasizes that review by the Secretary is an action to be taken as a last resort, and that great efforts should be made by the parties to resolve their disagreement informally with the assistance of OCZM.

(3) In the event either of the parties invokes the Secretarial mediation process, upon receiving notification of the serious disagreement the Secretary will schedule a hearing on the matter which will be conducted in the local area concerned (a hearing is a mandatory requirement under section 307(h) for serious disagreements arising during the administration of an approved management program).

(4) Following the hearing, the hearing officer shall provide the parties and the Secretary with findings of fact and a proposed resolution of the matter. Thereafter, the parties will have a period of time in which to provide comment to the Secretary on the hearing officer's findings and proposed resolution.

(5) After receipt of the parties comments, the Secretary shall schedule a mediation conference where party and Secretarial representatives will attempt to resolve remaining differences. Following the conference the Secretary shall propose a recommended resolution to the serious disagreement.

(6) If the parties do not accept the Secretary's recommendation, the Office of Management and Budget (OMB), Executive Office of the President, shall be notified of the continuing disagreement and will be requested to concur with the Secretary's recommendation or provide an alternative proposal. Executive Office participation is provided for within section 307(h) of the Act.

(7) After considering OMB's comments to the recommended resolution, or OMB's proposed alternative resolution, as the case may be, the Secretary shall submit to the parties a final resolution of the matter.

(8) If the final proposal does not resolve the serious disagreement, the Secretary shall issue a statement determining whether in the Secretary's view the Federal action is consistent with the approved State program. The Secretary is authorized to make this determination in conjunction with the requirement of section 316(a)(5) of the Act that the Secretary provide to the President for transmittal to Congress a listing of all activities and projects which, pursuant to the provisions of subsections (c) and (d) of section 307, are not consistent with an approved State program. The Secretary's determination shall constitute final agency action for purposes of the Administrative Procedure Act.

Some reviewers who were aware of the likelihood of the development of a mediation process for serious disagreements during program administration have expressed concern about the potential burdens which will result from the creation of such a process. In response, we point out the following. First, it is hoped that most conflicts will be resolved through informal means, and we reiterate that neither party is required to invoke the mediation process. However, in the event that informal efforts break down and a "serious disagreement" stage is reached, Congress has wisely provided a forum in which the parties, after a hearing and following efforts at mediation, may still resolve their differences and hopefully avoid the need to litigate the matter. Furthermore, even in those instances where mediation efforts fail and court intervention follows, the parties and the judiciary will benefit from the findings, guidelines for review, proposed resolutions and final determinations developed by the Secretary who is charged with administering the National Coastal Zone Management Program. In the long run, well-reasoned administrative as well as judicial precedent can be developed which will form the basis for resolving future disagreements that may arise between Federal and State agencies.

(ii) *Section 307(c)(3(A) and (B).* (a) A number of State agency reviewers indicated that State programs should only be required to include provisions for review of a limited number of "significant" Federal license and permit activities. The basis for this limitation was normally twofold, namely, because State agencies as a practical matter would not have sufficient resources permitting broad oversight efforts, and secondly, the States,' main concern only encompassed those activities most likely to have significant adverse impacts upon the coastal zone. The regulations allow this procedure to be followed and propose that State agencies should provide a listing of Federal license and permit activities which, under the management program, require State agency review.

The problem with this limited approach, however, is that the Act does not speak in terms of requiring consistency only for "significant" actions, but states that "any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone" must certify that the proposed activity is consistent with the State program, and such certification, following public notice, is subject to State agency concurrence or objection. While NOAA recognizes the impracticality of requiring States to review all Federal license and permit activities affecting the coastal zone, we note that the broad language of the Act reflects a Congressional intent to assure that minor actions which incrementally could have an adverse impact on the coastal zone should also be consistent with State programs. Accordingly, in order to accommodate both States' needs to develop manageable programs, while at the same time satisfying the Act's provisions for comprehensive coverage for Federal actions, the proposed regulations provide for what may be termed a "presumed concurrence" by State agencies for Federal license and permit activities not listed in the State program but which affect the coastal zone. The effect of this provision is to require Federal license and permit applicants, in limited instances, to certify that the proposed action is consistent with the State program. The state agency need not devote its resources to review the action but must provide public notice of the application and certification as provided by the Act. If, within a limited time, the State agency does not object to the proposed action, the Federal agency may presume State agency concurrence and may proceed with its review. However, should the State agency discover that the action could have an adverse impact on the coastal zone, it may incorporate the license or permit within its review system for listed activities. At a minimum, this procedure assures that the applicant, whose license or permit activity presumably affects the coastal zone, is cognizant of the State's program and has attempted to assure that the activity is consistent with that program.

(b) Many reviewers expressed great concern regarding the prospects of being burdened with duplicative and delaying processing procedures for review of Federal license and permit actions. While NOAA cannot eliminate the obligations which spring forth from the consistency requirements of the Act, we can and do encourage joint processing, joint hearings, combined functions, and other procedures by Federal and State agencies, to avoid duplication of existing efforts and unwarranted delay. These proposed regulations are not intended to unduly confine the Federal and State agencies in their efforts to develop workable consistency review procedures. On the contrary, NOAA actively promotes the use of flexible mechanisms to

accomplish the purposes of the Act. In this regard, we note a number of procedural options which, within the context of the regulatory requirements, are available to the Federal and State agencies.

(1) A State agency may wish to avoid repeated review of one of its listed "significant" license and permit activities. Accordingly, after an initial review and development of criteria or conditions for such activity, the State agency may issue a general public notice and concurrence which, in effect, would preclude the need for any further permit review for similar work in the same area.

(2) Some actions may require multiple review by a State. For example, under the Federal Water Pollution Control Act (FWPCA), as amended, the Corps of Engineers will not issue Section 404 dredge and fill permits unless the appropriate State official first issues a water quality certification under Section 401 of that Act (*See* 40 FR 31332, 1975). In the event a State's coastal zone management program requires State agency review of section 404 activities, whenever the State authorizes or objects to the action under Section 401 of the FWPCA, it should concurrently review the consistency of the action in terms of the State management program and, if appropriate, issue a consistency concurrence or objection as well. This dual review would then remove the need to process the action a second time.

(3) In a number of instances, a coastal zone activity may require a State as well as a Federal license or permit. As a preliminary matter, in such circumstances, NOAA strongly encourages that efforts be made to jointly process review of the proposed action. After the State authorizes or objects to the issuance of the State permit, it should at the same time indicate that any Federal license or permit for the identical activity will or will not be consistent with the State program, thereby removing the burden of having to concur or object again following receipt of a Federal application and certification.

(c) A number of Federal agency reviewers have indicated their concern regarding the effect of a State agency concurrence respecting the consistency of a proposed activity with the State program. They argue that while an action may be consistent with the state's program, it may not necessarily meet the requirements of the Federal program and, therefore, the Federal agency is free to reject the application despite the State agency's concurrence.

NOAA agrees with this position and notes the following. While sections 307 (c)(1), (2), (3) and (d) of the Act require Federal consistency with an approved State program, section 307(e) of the Act preserves to each Federal agency its responsibility for promoting its mission requirements. Accordingly, if a State agency concurs with an applicant's certification statement, it is expected that the Federal agency will not normally deny the license or permit. However, the Federal agency has the power to do so where there are overriding national program factors which dictate rejection of the application. This type of situation will hopefully be kept to a minimum, particularly in light of the fact that approved State programs will generally reflect the policies and objectives embodied within Federal agency programs by virtue of Federal agencies coordination and cooperation with State agencies during program development.

(d) Many reviewers have expressed concern regarding the State agencies' authority to concur with a certification statement by simply taking no action within the six month period following receipt of the certification (section 307 (c)(3)). Reviewers have argued that presumed concurrence can unduly and inequitably delay the issuance, denial or conditioning of a Federal license or permit to the detriment of the applicant. Furthermore, this extended process can add confusion and delay to Federal agency program administration. Accordingly, while the Act permits the states to concur by default after a six month period, NOAA strongly urges that, "at the earliest practicable time"—as the Act also provides—a State agency notify the applicant and Federal agency that it concurs with or objects to the applicant's certification. A State agency should restrict the period of public notice, receipt of comments, party consultation, hearing proceedings, and State agency appellate review to the minimum time necessary to fully inform the public, obtain sufficient comment, and develop a reasoned decision on the matter. Ninety (90) days from the State agency's receipt of the certification statement is recommended as sufficient time for these purposes.

(e) Section 307(c)(3) permits a Federal license or permit applicant to appeal to the Secretary from a State agency objection to a certification. The Secretary may override the State agency's objection if it is found that the "activity is *consistent with the objectives of this title* or is otherwise *necessary in the interest of national security.*" (Emphasis added.) The same bases for Secretarial override are provided within section 307(d) of the Act. A number of reviewers have requested clarification respecting the meaning of the highlighted terms. NOAA has added additional definitions within the regulations in response to these requests.

Some of the reviewers have argued that if a State agency determines that an activity is not consistent with the approved State program (which program, to have been approved, necessarily satisfies the "objectives" of the Act), then there is no basis for the Secretary to find consistency with the Act's objectives,—in other words, that a Secretarial override on the basis of consistency with the objectives of the Act is mutually inconsistent with the existence of an approved State program. There is a fallacy in this argument which we would like to point out at this time. There are an infinite number of forms that a State program may take and still be approved under the Act. For example, the stringency for environmental control of certain types of areas may vary from program to program, subject to a minimum standard of protection called for by the Act. Thus, an activity affecting wetlands may be subject to objection in one State but not in another, and yet both programs are approvable under the Act. Another example is a situation where a State program fails to anticipate the demand for a certain type of activity within its coastal zone, and in the absence of guidelines or standards with which to evaluate the activity, the State agency objects to the proposed activity. In such instances, despite the inconsistency with the State program, the proposed activity may nevertheless be found to be consistent with the objectives of the Act. With these distinctions in mind we note the following:

When an applicant on appeal argues that the proposed activity is consistent with the objectives of the Act, this does not mean that the Secretary will be judging the action against the policies and procedures within the State's approved program. The State agency's finding of inconsistency with the State's program is presumed to be correct and is not an issue on appeal. The basis for a Secretarial override will be similar to that provided within a variance procedure. A deviation from the State program may be permitted (1) If the proposed activity is compatible with the objectives of the Act (although not with the specific State program requirements); while this is one of the bases necessary to justify a Secretarial override, standing alone it is not sufficient. Additionally, the applicant must demonstrate (2) That complete adherence to the State program would cause the applicant to suffer a substantial burden, and (3) That the deviation, if permitted, would not have a significant negative impact upon the integrity at the State program.

With respect to a Secretarial override based upon the interest of national security, one point is worth noting. The legislative history indicates that when a Defense Department agency informs the Secretary that an activity is necessary in the interest of national security, the Secretary, with the aid of the information submitted, will make an independent review and decision on the matter. In other words, while the views of the Defense Department agencies may be highly persuasive, they are not dispositive.

(f) Following the review period on the preliminary draft of the regulations, the Coastal Zone Management Act Amendments were enacted. Due to this sequence of events, no comments were received concerning the new Federal consistency provision, section 307(c)(3)(B), which applies to Outer Continental Shelf (OCS) oil and gas exploration, development and production activities. NOAA is presently reviewing the new provision and anticipates that a number of questions will arise concerning the meaning to be given to certain terms within the provision.

For example, it may be necessary to establish what constitutes "necessary data and information" which an applicant must supply to the State agency along with the exploration, development

or production plan and certification statement. A related issue involves the term "described in detail." Following State agency concurrence with an exploration, development or production plan and certification statement, any Federal license or permit activity described in detail in such plan will no longer be subject to individual consistency review under Section 301(c)(3)(A) of the Act. At the time of plan submission, applicants may only be able to describe certain future activities in the most general terms due to the fact that it may be impossible to fully anticipate the impacts and needs which will result from the proposed action. A question arises as to whether such activities generally outlined in a plan should be considered as activities "described in detail" for purposes of consistency review. NOAA invites comments on these issues as well as on other matters concerning the new OCS provision.

(iii) *Section 307(e)*. A few Federal agency reviewers have asked for clarification regarding the impact of this provision of the Act. As is made clear at page 20 of the Senate Report (citation above), this provision "is a standard clause disclaiming intent to diminish Federal or State authority in the fields affected by the Act * * *." NOAA construes this provision as merely preserving for each Federal agency the responsibility for its own mission, subject to such additional requirements as the Act may impose. Thus the duty the Act imposes upon Federal agencies is not set aside by virtue of this Section. The Act was intended to effect substantive changes in the Federal agency decision-making within the context of the discretionary powers residing within such agencies. Accordingly, Federal agencies must, where possible, incorporate the policies and procedures set forth in the Act as a working part of all Federal decisions which affect the coastal zone.

(iv) *Section 307(f)*. A number of questions were raised by reviewers respecting the interface between the Federal consistency requirements of the Act and the provisions for preserving the requirements of the Federal Water Pollution Control Act (FWPCA), as amended, and Clean Air Act (CAA), as amended. One question concerned whether a State agency could incorporate into its management program water and air quality requirements more stringent than those established by the Environmental Protection Agency (EPA) under the FWPCA and CAA. It is clear from the Act that the adoption of less stringent requirements would be impermissible. As to the issue of more stringent standards, at this time NOAA has not taken a position on this issue and welcomes comments on the matter.

(v) *Section 312: Review of Performance*. One reviewer noted the fact that the proposed draft regulations did not explicitly address the matter of public participation with regard to monitoring the consistency of Federal actions with approved State programs. In response to this comment we point out that the emphasis within the Federal consistency provisions of the Act is the resolution of disagreements by the parties, namely, the Federal agencies, applicants and State agencies. However, the public hearing requirement of Section 307(h) relating to serious disagreements arising during program administration, and the public notice and comment requirement of Section 307(c)(3) relating to Federal licenses and permits, open the review proceedings to the public, and NOAA encourages interested parties to provide the Secretary, OCZM, Federal agencies and State agencies with relevant information on matters concerning the consistency of proposed Federal actions.

Another reviewer noted that while the provisions of the draft regulations attempted to assure that State agency objections to Federal actions were adequately reviewed by the Secretary, there were no measures provided for reviewing the propriety of State agency concurrences to proposed Federal actions. In other words, the regulations lacked a mechanism for reviewing situations where a State agency might fail to properly enforce the requirements of an approved program, thereby allowing an inconsistent Federal action to proceed despite a conflict with the approved State program.

As far as instances where a State agency concurs with respect to the consistency of a Federal action when, in fact, the approved State program requires an objection, two points require emphasis. First, if a State fails to enforce its own legal requirements and criteria which are incorporated in its approved program, it is probable that there would be third party recourse to State court proceedings to compel State agency adherence to the requirements of the State program. Of more significance as far as NOAA involvement is concerned is the fact that the Secretary, under section 312 of the Act, is authorized to require enforcement of the performance standards within approved State programs, and may terminate financial assistance under section 306 of the Act if it is determined that "the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary." In the near future, regulations developing the framework for comprehensive implementation of performance review will be promulgated. In the meantime, and thereafter, interested parties are invited to provide comments to OCZM respecting their disagreements with State agency concurrences with proposed Federal actions.

Concluding Remarks

As NOAA moves into this new phase of coastal zone management, namely, program approval and administration, we strongly urge public questioning and comment on the new issues and problems that are evolving. These proposed regulations set forth the policies and procedures to be followed to implement the Federal consistency provisions of the Act. Their significance and potential cannot be overly stressed. Congress has provided an extraordinary opportunity to promote comprehensive Federal-State cooperative land and water use management for the Nation's coastal zone. The benefits of such a program can be far-reaching if the procedures for its effectuation do not frustrate the ultimate goal.

NOAA invites public comment on these proposed regulations so that they may be modified, where necessary and legally permissible, to fully reflect the needs of the public and parties affected by the provisions. Written comments should be submitted to the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 3300 Whitehaven Street NW., Washington, D.C., 20235, on or before November 29, 1976. Following the close of the comment period, and after review of the comments, the Administrator may amend these proposed regulations to reflect necessary and permissible changes. The Administrator shall then publish final regulations in the Federal Register.

Robert M. White,
Administrator.

Subpart A—General

Sec.
921.1 Definitions.
921.2 Requirements.
921.3 Authority.
921.4 Purpose.

Subpart B—Federal Consistency Procedures

921.5 Consistency of Federal activities including development projects.
921.6 Consistency of Federal licenses and permits.
921.7 Consistency of Outer Continental Shelf activities.
921.8 Consistency of Federal assistance programs.

Subpart A—General

§ 921.1 Definitions.

In these regulations:

(a) "Act" means the Coastal Zone Management Act of 1972 (16 U.S.C. § 1451, et seq.), as amended.

(b) "Secretary" means the Secretary of the U. S. Department of Commerce.

(c) "OMB" means the Office of Management and Budget, Executive Office of the President of the United States.

(d) "OCZM" means the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, U. S. Department of Commerce.

(e) "Federal agency" means any department, agency, board, commission, independent office within the executive branch of the Federal Government, and any wholly Federal Government corporation.

(f) "State agency" means the unit or units of a State government responsible for the administration of a management program.

(g) "Management program" includes, but is not limited to, a statement in words, maps, illustration, or other media of communication adopted by a coastal State in accordance with the provisions of the Act and approved by the Secretary, that sets forth objectives, policies, and standards to guide public and private uses of lands and waters of a State's coastal zone.

(h) "Federally conducted or supported activity" means any activity directly affecting the coastal zone and being conducted by or on behalf of a Federal agency at the time of the approval of a management program, or any such activity begun by or on behalf of a Federal agency after the approval of a management program, including a Federal development project, but does not include: (1) The issuance of a Federal license or permit or (2) The granting of Federal assistance to a State or local government.

(i) "Federal development project" means any construction project involving a building or other structure, or the alteration of terrain or a body of water, conducted or financially supported by the Federal Government after the approval of a management program.

(j) "Federal license or permit" means any license or permit which any Federal agency is authorized to issue to conduct an activity affecting land or water uses in the coastal zone, and includes any license or permit for any activity, affecting any land use or water use in the coastal zone, described in detail in any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. § 1331 et seq.) and regulations thereto.

(k) "Federal assistance" means assistance to state and local governments, or to any entity related thereto, through grant or contractual arrangements, loans, guarantees or insurance, under a Federal program other than the one authorized by the Act, for an activity affecting the coastal zone.

(l) "Coastal zone" means the coastal zone as defined in a State's management program for coastal waters (including the waters therein an thereunder), strongly influenced by each other and in proximity to the shorelines, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches, with the waters extending, in the Great Lakes, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea, and for lands extending inland from the shortlines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands, the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(m) "Applicant" means an individual, public or private corporation, partnership, association, or other entity organized or existing under the laws of any State; a Federal agency; any State, regional or local government; or any entity of any such State, regional or local government, applying for a Federal license or permit to conduct an activity affecting land or water uses in the coastal zone, or submitting to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act, and regulations thereto, which plan describes activities affecting any land use or water use in the coastal zone.

(n) "Applicant agency" means any state or local government, or any entity related thereto, applying for Federal assistance, under a Federal program other than the one authorized by the Act, for an activity affecting the coastal zone.

(o) "Consistent to the maximum extent practicable" describes the requirement that a Federally conducted or supported activity, including a Federal development project, be consistent with a management program except to the extent that deviation therefrom is justified because: (1) some circumstance arose after the approval of the management program which was not foreseen at the time of the approval and (2) A consistent action would thereafter impose an unreasonable burden on the Federal agency in relation to the negative impact on the deviation of the integrity of the management program.

(p) "Consistent with the objectives or purposes of the Act" describes a Federal license or permit activity or Federal assistance activity which is inconsistent with a management program but which the Secretary nevertheless determines is a permissible activity because: (1) The activity is compatible with the policies declared by Congress in Section 302 and subsections (a) and (b) of Section 303 of the Act, (2) The activity will not have a significant negative impact upon the integrity of the management program, and (3) Requiring consistency for the activity would impose an unreasonable burden on the applicant.

(q) "Necessary in the interest of national security" describes a Federal license or permit activity or Federal assistance activity which is inconsistent with a management program but which is nevertheless found to be essential for the national security as independently determined by the Secretary.

§ 921.2 Requirements.

This part establishes policies and procedures to be utilized by coastal States and Federal agencies for implementing the Federal consistency provisions of the Act.

(a) Coastal zone management programs developed by the coastal States shall comply with the Federal consistency policies and procedures of Section 307 of the Act. Coastal zone management programs shall give full consideration to Federal consistency requirements and such consideration shall be reflected by procedures incorporated in the management programs to: (1) Review the consistency of Federally conducted or supported activities including Federal development projects, (2) Provide public notice and review of the certification of consistency statements developed by applicants for Federal licenses and permits, and (3) Review the consistency of Federal assistance to applicant agencies.

(b) Federal agencies shall comply with the Federal consistency policies and procedures of Section 307 of the Act. Federal agencies shall: (1) Develop procedures to provide State agencies with notification and an opportunity to review the consistency of Federally conducted or supported activities including Federal development projects, (2) Not grant Federal licenses or permits if the State agency objects to the applicant's certification, unless the objection is overridden by the Secretary, and (3) Not grant Federal assistance to applicant agencies if the State agency finds that the proposed activity is not consistent with the management program, unless the State agency objection is overridden by the Secretary.

§ 921.3 Authority.

Authority for these regulations is found within the following provisions of the Act:

(a) *Section 307(c)(1)* of the Act which provides: "Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs."

(b) *Section 307(c)(2)* of the Act which provides: "Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs."

(c) *Section 307(c)(3)* of the Act, amended by the Coastal Zone Management Act Amendments of 1976 (Pub. L. 94-370, 90 Stat. 1013) which provides:

(A) After final approval by the Secretary of a state's management program any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

(B) After the management program of any coastal state has been approved by the Secretary under section 306, any person who submits to the Secretary of the Interior any

plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land use or water use in the coastal zone of such state, attach to such plan a certification that each activity which is described in detail in such plan complies with such state's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such state or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and until:

(i) such state or its designated agency, in accordance with the procedures required to be established by such state pursuant to subparagraph (A), concurs with such person's certification and notifies the Secretary and the Secretary of the Interior of such concurrence;

(ii) concurrence by such state with such certification is conclusively presumed, as provided for in subparagraph (A); or

(iii) the Secretary finds, pursuant to subparagraph (A), that each activity which is described in detail in such plan is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

If a state concurs or is conclusively presumed to concur, or if the Secretary makes such a finding, the provisions of subparagraph (A) are not applicable with respect to such person, such state, and any Federal license or permit which is required to conduct any activity affecting land uses or water uses in the coastal zone of such state which is described in detail in the plan to which such concurrence or finding applies. If such state objects to such certification and if the Secretary fails to make a finding under clause (iii) with respect to such certification, or if such person fails substantially to comply with such plan as submitted, such person shall submit an amendment to such plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under subparagraph (A) is 3 months.

(d) *Section 307(d)* of the Act which provides: "State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

(e) Section 307(h) of the Act, added to the Act by Pub. L. 94-370, which provides: "In case of serious disagreement between any Federal agency and a coastal state:

(1) In the development or the initial implementation of a management program under section 305; or

(2) In the administration of a management program approved under section 306;

the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement. The process of such mediation shall, with respect to any disagreement described in paragraph (2), include public hearings which shall be conducted in the local area concerned."

(f) *Section 316(a)(5)* of the Act which provides: "The Secretary shall prepare and submit to the President for transmittal to the Congress * * * a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program * * *."

(g) *Section 317* of the Act which provides: "The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizational port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title."

§ 921.4 Purpose.

These regulations are being promulgated for the following reasons:

(a) *Program Implementation.* There is a need to immediately implement the overall legislative program envisioned by Congress for achieving Federal-State consistency in the Nation's coastal zone. Federal and State agencies will now be required to incorporate Section 307 policies and procedures into their coastal zone management efforts.

(b) *Comprehensive coastal zone planning and management.* These regulations are intended to describe the benefits which accrue to a coastal State following development and approval of a coastal zone management program. Congress provided for Federal consistency in the coastal zone as an incentive to encourage States to develop management programs under the Act. If the States excercise their full authority over the lands and waters in the coastal zone, in cooperation with Federal and local governments and other interested parties, coastal programs can be developed and approved leading to comprehensive and efficient coastal zone planning and management.

(c) *Efficient administration.* These regulations establish a minimum foundation for efficient implementation of the various consistency requirements of the Act, and provide a degree of uniformity to the developing Federal, State and local government efforts to carry out the requirements of the Act. The uniform framework provided in the regulations is not intended to unnecessarily constrain Federal, State and local governments from developing additional or alternative procedures which satisfy the requirements of the Act. The parties are encouraged to place consistency procedures in the context of existing intergovernmental cooperation processes and to avoid duplication of effort and unnecessary delays by adopting joint processing and other procedures for reducing administrative burdens.

(d) *Define respective roles and responsibilities.* (1) *Federal agencies* are required to assure that their Federally conducted and supported activities including Federal development projects are, to the maximum extent practicable, consistent with approved management programs. They are also required to provide State agencies with notification and an opportunity to review the consistency of such actions. In case of disagreement, the parties should informally attempt to settle the matter. OCZM will be available upon request to assist the parties. In the event the matter reaches the stage of being a serious disagreement, either party may invoke the Secretarial mediation process. A request for review by the Secretary should only be made as a last resort effort, and the parties should earnestly endeavor to resolve their disagreement informally with the assistance of OCZM.

(2) The Secretary shall attempt to mediate serious disagreements between Federal and State agencies. If the Secretary's mediation efforts fail, OMB shall be called in to assist the Secretary. If this joint effort does not lead to resolution of the disagreement, the Secretary shall issue a statement indicating whether or not, in the Secretary's view, the action under review is consistent with the management program.

(3) The Act requires that an applicant certify that the proposed activity is consistent with the management program. The State agency's responsibilities are to provide public notice of the certification, review the matter, and concur with or object to the applicant's certification. The certification requirement cannot be waived by the State agency, nor can the State agency directly assume the responsibility for certification. However, State agencies may reduce the burden imposed upon applicants by consulting with applicants prior to submission of the certification statement and providing applicants with assistance and information. In the event the State agency objects to the certification statement, the applicant has a right of appeal to the Secretary.

(4) Applicant agencies are required to undertake their Federal assistance activities in a manner consistent with the management program. State agencies are responsible for reviewing such activities to assure their consistency with the management program. Upon a request for review by the applicant agency, State agency or Federal agency administering the Federal assistance program, the Secretary may, in limited circumstances, override a State agency objection to a Federal assistance activity.

(e) *NOAA Administration of the National Program.* By virtue of these regulations, NOAA intends to assist Federal agencies, State agencies, and other interested parties through the processes of developing cooperative and workable procedures for implementing the Fed-

eral consistency requirements of the Act. The benefits of consistency depend upon the creation of efficient and responsive systems for notification, joint or concurrent review, opportunities for Federal-State-applicant informal consultation, and effective, good-faith negotiations of differences. The Federal consistency provisions of the Act offer coastal states an unusual incentive for entry into the national coastal zone management program. However, this incentive must be viewed in context with the collateral responsibility of adequately considering Federal agencies' views during the development and administration of management programs, and with the requirement for developing procedures to implement the consistency provisions of the Act. The Secretary and, by delegation NOAA and OCZM, intend to be fully responsive to Federal agency and State agency needs with respect to resolving any problems which arise concerning implementation of the Federal consistency requirements. Finally, the Secretary, NOAA, and OCZM shall maintain responsibility for prudent administration of the Act to assure that the views of the Federal agencies and coastal states are properly balanced within the framework of national coastal zone management policies.

Subpart B—Federal Consistency Procedures

§ 921.5 Consistency of Federal activities including development projects.

(a) Federal agencies have the initial responsibility for determining whether existing or planned Federally conducted or supported activities directly affecting the coastal zone; including planned Federal development projects in or directly affecting the coastal zone, are consistent to the maximum extent practicable with an approved State management program. Federal agencies, with the assistance of the designated State agency or agencies, shall develop a set of criteria and standards for judging the consistency of such actions with respect to each approved State management program. Federal agencies should consult with State agencies during their evaluation of whether an activity, including a development project, is consistent to the maximum extent practicable with an approved State management program.

(b) Through continuing mechanisms of consultation and coordination, Federal agencies shall notify State agencies at the earliest practicable time of existing or planned Federally conducted or supported activities directly affecting the coastal zone, including planned Federal development project in or directly affecting the coastal zone. Such notification may be implemented to direct Federal agency communication to the State agency, expanded use of the OMB Circular A-95 notification and review system (41 FR 2052 (1976)), or by use of other existing intergovernmental notification and review procedures so long as they are modified and supplemented where necessary to satisfy the requirements of this section. Federal agencies and State agencies are encouraged to develop agreements enumerating the types of or individual activities, including development projects, requiring review by the State agencies.

(c) Regardless of what procedures are used by the Federal agency to inform the State agency of the existence of Federal activities directly affecting the coastal zone, including planned Federal development projects in or directly affecting the coastal zone, the notification to the State agency describing the action shall include either: (1) A statement that the action is consistent to the maximum extent practicable with the management program, or (2) A statement that the action is not consistent with the management program and will not be pursued unless and until the management program is appropriately amended to permit the action. Federal agencies shall also notify State agencies of Federal activites, including Federal development projects, adjacent or in close proximity to the coastal zone which the Federal agencies initially determine are not subject to the consistency requirements of the Act. All Federal agency notifications to State agencies shall be accompanied by adequate information to support the consistency determinations and should, where possible, be transmitted to the State agencies at least 120 days prior to the contemplated initiation of new actions.

(d) A State agency should inform the Federal agency of its agreement or disagreement with the Federal agency's consistency determination at the earliest practicable time. If the State agency has not developed a response to the matter within 45 days from receipt of the Federal agency notification, it shall, at that time, inform the Federal agency of the status of the matter, the basis for further delay, and shall indicate the approximate date expected for development of a response. The Federal agency may presume State agency agreement with the Federal consistency determination if the State agency fails to develop a response within 90 days from receipt of the Federal agency notification; State agencies are encouraged not to express agreement by failure to respond to the Federal agency's notification. In the event the State agency disagrees with the Federal agency's consistency determination, or determination that a Federal activity, including a Federal development project, is not subject to the consistency requirements of the Act, the State agency shall accompany its response to the Federal agency with its reasons for the disagreement. If the Federal agency disagrees, in whole or in part, with the State agency's position, the parties shall attempt to settle the matter by informal means. OCZM shall be available upon request to assist the parties in this regard.

(e) A disagreement between a Federal agency and a State agency which persists to a point at which the parties are still in disagreement after having informally consulted for at least 30 days following the State agency's disagreement response to the Federal agency, may be declared by either party to be a serious disagreement for the purposes of section 307(h) of the Act; however, neither party is required to make such a declaration, and informal efforts to resolve the disagreement may proceed beyond this 30 day period. In the event either party makes such a declaration following the 30 day period, it shall notify OCZM that a serious disagreement has been declared which requires Secretarial mediation; a copy of the notification shall be sent to the opposing agency. After receipt of a notice of serious disagreement, OCZM shall file a request with the Secretary for the scheduling of a hearing in the local area concerned.

(f) Upon receiving a hearing request from OCZM, the Secretary shall appoint a hearing officer who shall schedule a hearing in the local area concerned. The hearing officer shall give the parties at least 30 days notice of the time and place set for the hearing. Upon receipt of the hearing notice, the State agency shall provide the public in the local area concerned with notice of the hearing. The parties shall have 20 days from receipt of the hearing notice to submit to the hearing officer a statement of the serious disagreement with supporting information; a copy of the statement and supporting information shall be served on the opposing agency party. Both the Federal agency and State agency shall provide the public in the local area concerned with notice of and convenient access to copies of the statements of serious disagreement and supporting information at the same time as such documents are submitted to the hearing officer.

(g) Prior to the hearing, the hearing officer may direct the parties to appear at a specified time and place for a prehearing conference to consider: (1) the possibility of withdrawal of the request for Secretarial mediation; (2) the potential for obtaining stipulations, admissions of fact, and agreements to the introduction of documents; (3) A limitation on the number of witnesses; and (4) Any other matters which may aid in the disposition of the hearing proceedings. The hearing record shall include a statement, issued by the hearing officer, which recites the action and agreements developed at the prehearing conference.

(h) Hearings shall be as informal as may be reasonable and appropriate in the circumstances. At the hearing, the Federal agency and State agency may offer such relevant evidence as they deem appropriate subject to the hearing officer's supervision as to the extent and manner of presentation. The hearing officer may also accept relevant evidence offered by other interested parties. All oral testimony shall be under oath and witnesses shall be subject to questioning by the parties to the disagreement and by the hearing officer. Hearings will be recorded verbatim and transcripts thereof shall be made when requested by interested parties; costs of transcripts shall be borne by the requesting parties.

(i) Within 30 days following termination of the hearing, the hearing officer shall transmit to the Secretary findings of fact and a proposed resolution of the matter, with the reasons therefor; copies

of the hearing officer's findings and proposed resolution shall be sent to the parties to the hearing. Both the Federal agency and the State agency shall provide the public in the local area concerned with notice of and convenient access to copies of the hearing officer's decision. Within 20 days from receipt of the decision, the parties shall submit comments to the Secretary, with copies to the opposing agency. Other interested parties may also submit comments to the Secretary, with copies to the opposing agencies.

(j) Upon receipt of the hearing officer's findings and proposed resolution, the Secretary shall schedule a mediation conference to be attended by representatives from the Office of the Secretary, the Federal agency and the State agency. The Secretary shall give the parties at least 30 days notice of the time and place set for the mediation conference. At the mediation conference, the parties shall endeavor to resolve any outstanding differences.

(k) Following the termination of the mediation conference, and after reviewing the hearing officer's findings and proposed resolution, the comments of the parties, and any additional information received from the opposing agencies or other interested parties, the Secretary shall develop a recommended resolution of the serious disagreement based upon the information submitted and the policies and provisions of the Act and regulations thereto. The Secretary shall forward the recommended resolution, and the reasons therefor, to the parties to the serious disagreement for their review and comment. Concurrently, the Secretary shall notify OMB in writing of the serious disagreement, and shall accompany such notification with necessary background information and a copy of the recommended resolution.

(l) The parties shall have 15 days from receipt of the recommended resolution to comment in writing to the Secretary, with a copy of the comments to the opposing party. If the parties to the serous disagreement do not accept the Secretary's recommended resolution, the Secretary shall so notify OMB and shall provide OMB with the agencies' comments and any additional recommendations which the Secretary may have. After considering the information submitted by the Secretary, OMB shall inform the Secretary that it agrees with the recommended resolution, or shall propose an alternative resolution.

(m) After considering OMB's comments to the recommended resolution, or OMB's proposed alternative resolution, as the case may be, the Secretary shall issue a final resolution to the parties to the serious disagreement. The parties shall have 10 days from receipt to accept or reject the final resolution; copies of the response shall be sent to the opposing agency. If the final resolution does not resolve the serious disagreement, the Secretary shall determine whether the subject activity is consistent with the management program. The Secretary shall transmit his determination in writing, with the reasons therefor, to the parties to the disagreement. In the event the Secretary determines that the activity is not consistent with the management program, the Secretary shall notify the Federal agency that the inconsistent action will be reported to the President for transmittal to Congress pursuant to the requirement of section 316(a)(5) of the Act. The Secretary's determination shall constitute final agency action for the purposes of the Administrative Procedure Act.

(n) The time for filing or serving any document required by this section may be extended for good cause. A request for an extension must be filed within the time allowed for the filing or serving of the document.

(o) The Secretarial mediation proceedings may be dismissed by the Secretary: (1) At such time as the Secretary is notified that the moving party has withdrawn the request for mediation and the opposing agency party agrees to such withdrawal; (2) At such time as the Secretary is notified by the parties that they have accepted the Secretary's resolution of the serious disagreement; (3) In the event the parties submit to the Secretary an alternative resolution which is approved by the Secretary; or (4) For other good cause.

(p) The procedures within this section shall also pertain to a disagreement between a State agency and a Federal agency resulting from a State agency's objection to the continued operation of a Federally conducted or supported activity, including a Federal development project, which was: (1) Previously determined to be consistent to the maximum extent practicable with the management program but which the State agency later maintains is not being conducted in the manner originally proposed and is no longer consistent to the maximum extent practicable with the management program; or (2) Previously determined not to be subject to the requirements of the management program but which the State agency later maintains is not being conducted in the manner originally proposed and, as a result of this change, is subject to and not consistent to the maximum extent practicable with the management program.

§ 921.6 Consistency of Federal licenses and permits.

(a) With the assistance of Federal agencies, the State agency should develop a listing of all Federal license and permit activities affecting land or water uses in the State's coastal zone which, under the management program, require State agency review to determine whether the proposed activity complies with the state's management program and will be conducted in a manner consistent with the management program. The State agency shall transmit the list to the Federal agencies and to OCZM, and shall make the list available to the public. The list may be modified by the State agency at any time; Federal agencies, OCZM and the public shall be notified of any modification of the list.

(b) Any applicant for a Federal license or permit for an activity affecting land or water uses in the coastal zone should, as a preliminary matter, obtain the views and assistance of the State agency regarding the means for assuring that the proposed activity complies with and will be conducted in a manner consistent with the management program. Upon being informed by the State agency that the proposed activity does not satisfy the requirements of the management program, the applicant should consult jointly with the State agency and the Federal agency to determine how the application may be drawn to meet both State and Federal requirements.

(c) In the event an applicant chooses to submit an application to the Federal agency for a permit or license activity listed by the State agency, the applicant shall concurrently transmit a copy of the application, along with a certification statement, to the State agency. The certification statement shall be in the form of a document signed by the applicant indicating that the proposed activity will comply with and be conducted in a manner consistent with the management program; the certification statement shall be accompanied by sufficient information to support the applicant's consistency determination. The State agency may request, and the applicant shall provide, additional relevant information needed to support the applicant's determination.

(d) After the applicant has submitted the application and certification statement, and any additional information requested by the State agency, the State agency shall immediately provide the public with a summary of the application and certification statement. Public notice shall be provided in the immediate area of the coastal zone which may be affected by the proposed activity. For the purposes of this Section, the public shall include units of State and local government as well as affected citizens. Should the State agency deem it advisable, public notice may include one or more public hearings. Public notice shall include a request for comments to be submitted to the State agency by a date certain. In the event a public hearing is held, it shall be held promptly but no earlier than 30 days following the first public notice. Federal and State agencies are encouraged to hold joint hearings in the event both agencies determine that a hearing on the action is required.

(e) The Act requires all applicants for Federal licenses or permits to conduct activities affecting land or water uses in the coastal zone to certify that the proposed activity complies with and will be conducted in a manner consistent with the State's management program. With regard to applications for licenses and permits not listed by a State agency, the Federal licensing or permitting agency shall advise the applicant whether the proposed activity will affect land or water uses in the State's coastal zone. If the Federal agency determines that the proposed activity will not have such an effect, the Federal agency may proceed with its normal processing of the application. If the Federal agency determines that the proposed activity will affect land

or water uses in the State's coastal zone, it shall direct the applicant to develop and file with the State agency a certification statement in conformance with the requirements of paragraph (c) of this section. For the purpose of the initial review by the Federal agency prescribed by this subsection, it shall be presumed that a proposed activity will affect land or water uses in the coastal zone if the activity is to take place within, adjacent, or in close proximity to the boundaries of the coastal zone. Federal agencies and State agencies are encouraged to develop agreements enumerating the types of or individual activities requiring certification under this section.

(f) Upon receipt of a certification statement developed pursuant to the requirements of paragraph (e) of this section, the State agency shall provide public notice of the statement in accordance with the requirements within paragraph (d) of this section. If no decision is rendered by the State agency within 30 days from receipt of the certification statement, the Federal agency may presume State agency concurrence with the certification statement. Following an explicit or presumed concurrence by the State agency, the Federal agency may proceed with its normal processing of the application. Within the 30-day period, the State agency may issue a decision to the applicant and Federal agency indicating that the proposed action requires further State agency review under the procedures applicable to listed licenses and permits. In the event the State agency issues such a decision, further Federal agency action on the application will be subject to the provisions for listed licenses and permits, as hereafter provided.

(g) Following the close of the public notice comment period provided under paragraph (d) of this section, the State agency shall decide whether the proposed listed license or permit activity complies with and will be conducted in a manner consistent with the management program. The Act provides that concurrence by a State agency may be presumed by the absence of any State agency action within six months of receipt of the applicant's certification statement. Accordingly, if no decision is issued within six months from that date, State agency concurrence with the certification statement shall be conclusively presumed, and thereafter the Federal agency may proceed with its normal processing of the application. However, State agencies are strongly urged not to express concurrence with an applicant's certification statement by failure to take action. Ninety (90) days from the State agency's receipt of the application and certification statement is recommended as sufficient time to develop a decision on the matter. If the State agency has not developed a decision by the end of the recommended 90-day period, it shall, at that time, notify the applicant and the Federal agency of the status of the case, the basis for further delay, and shall indicate the approximate date for the expected issuance of a decision.

(h) Except in extraordinary cases where the State agency's concurrence is conclusively presumed by the absence of any action within six months following the State agency's receipt of the certification statement, the State agency shall notify the applicant and the Federal agency may proceed with its normal processing of the application. If the State ment, and shall include an explanation of the reasons therefor. If the State agency issues a decision concurring with the certification statement, the Federal agency may proceed with its normal procesing of the application. If the State agency objects to the certification statement, the Federal agency shall not issue the license or permit except as hereafter provided. The State agency may append conditions to a decision objecting to a certification statement which, if met, would permit concurrence by the State agency; in such case, further consultation among the parties may take place for the purpose of determining whether the application, with the proposed conditions, would permit approval by both the Federal and State agencies. State agency decisions objecting to certification statements shall include a statement informing the applicant of a right of appeal to the Secretary, and the State agency shall send a copy of such decisions to OCZM.

(i) If the State agency issues a decision objecting to the applicant's certification statement and the applicant thereafter notifies the State agency that the activity should nevertheless be approved because it is consistent with the purposes of the Act, or is necessary in the interest of national security, or both, the parties should informally consult with each other on these issues. OCZM shall be available upon request to assist the parties in this regard. If as a result of this consultation the State agency reconsiders its earlier decision and concurs with the certification statement, the Federal agency may proceed with its normal processing of the application.

(j) If the applicant continues to have the certification statement objected to by the State agency after having informally consulted with the State agency for at least 30 days following receipt of the State agency decision, the applicant may file a notice of appeal to the Secretary. The notice of appeal shall be transmitted to the Secretary within 45 days of the applicant's receipt of the State agency decision, and shall be accompanied by a statement in support of the applicant's position, along with supporting data and information. The applicant shall send a copy of the notice of appeal and accompanying documents to the Federal and State agencies involved.

(k) Upon receipt of the notice of appeal, the Secretary shall direct the applicant and the Federal and State agencies involved to submit such views and information as deemed relevant; copies of such views and information shall be sent to the other parties to the proceeding. In presenting the appeal to the Secretary, the applicant shall have the burden of proving by a preponderance of the evidence that the proposed activity is either consistent with the purposes of the Act or is necessary in the interest of national security, or both. Upon receiving all views and relevant information on the matter, the Secretary shall consider the appeal. In considering the matter, the Secretary may order a hearing independently or in response to a request by one of the parties; such a hearing shall be subject to the provisions within § 921.5 paragraphs (f) through (i) as appropriately modified by the Secretary to reflect the requirements of this section.

(l) As provided by the Act, despite the absence of an appeal to the Secretary by an applicant, the Secretary, in exceptional circumstances, may undertake consideration of whether an activity objected to by a State agency is consistent with the purposes of the Act or is necessary in the interest of national security, or both. If the Secretary decides to act in this manner, notification shall be transmitted to the applicant and the Federal and State agencies involved within 60 days of the State agency's decision objecting to the applicant's certification statement. The notification shall require the parties to provide the Secretary with their views and supporting information on the matter, with copies to the other parties. Upon receiving all views and relevant information on the matter, the Secretary shall consider the case. In reviewing the case, the Secretary shall be guided by the principle that the objection to the certification statement by the State agency shall only be overridden if it is established by a preponderance of the evidence submitted that the proposed activity is either consistent with the purposes of the Act or is necessary in the interest of national security, or both. In considering the case, the Secretary may order a hearing independently or in response to a request by one of the parties; such a hearing shall be subject to the provisions within § 921.5 paragraphs (f) through (i) as appropriately modified by the Secretary to reflect the requirements of this section.

(m) Following consideration of an appeal, or of a matter reviewed by Secretarial initiative, the Secretary shall determine whether the proposed activity is consistent with the purposes of the Act or is necessary in the interest of national security, or both, and shall communicate the decision in writing, with a statement of the reasons therefor, to the applicant and the Federal and State agencies involved. If the Security determines that the proposed activity is consistent with the purposes of the Act or is necessary in the interest of national security, or both, the Federal agency may proceed with its normal processing of the application. If the Secretary does not make any such findings, the Federal agency shall not issue the license or permit. The decision of the Secretary shall constitute final agency action for the purposes of the Administrative Procedure Act.

(n) The time for filing or serving any document required by this Section shall be subject to the provisions within section 921.5(n).

(o) The Secretarial review proceedings may be dismissed by the Secretary: (1) At such time as the applicant notifies the Secretary that the appeal is withdrawn; (2) At such time as the parties submit to the Secretary a resolution of the matter which is approved by the Secretary; or (3) For other good cause.

(p) The procedures within this Section shall also pertain to an objection by a State agency to the continued operation of a federally licensed or permitted activity which was: (1) Previously certified by the applicant and approved by the State agency but which the State agency later maintains is not being conducted in the manner originally proposed and is no longer consistent with the management programs; or (2) Previously determined not to be subject to the requirements of the management program but which the State agency later maintains is not being conducted in the manner originally proposed and, as a result of this change, is subject to and not consistent with the management program.

§ 921.7 Consistency of Outer Continental Shelf activities.

(a) Any applicant submitting to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. § 1331 et seq.) or regulations thereto: (1) Shall identify those activities described in the plan affecting any land use or water use in the coastal zone of any State having a management program approved by the Secretary; (2) Should obtain the views and assistance of the State agency regarding the means for assuring that such activities comply with and will be conducted in a manner consistent with the management program; (3) Shall develop a certification statement, signed by the applicant, indicating that each activity identified as affecting land use or water use in the coastal zone and described in detail in the plan complies with and will be carried out in a manner consistent with the management program; and (4) Shall transmit to the State agency a copy of the plan and certification statement, together with any other necessary data and information required to support the applicant's certification statement. For the purpose of the initial review by the applicant required by this subsection, it shall be presumed that an activity described in a plan will affect land use or water use in the coastal zone if the activity is to take place adjacent or in close proximity to the boundaries of the coastal zone. The State agency may request, and the applicant shall provide, additional relevant information needed to support the applicant's determination. After receipt of a copy of the plan, certification statement, and accompanyng documents, the State agency shall provide public notice and review of the plan and certification statement in accordance with the requirements within § 921.6 paragraphs (d), (g) and (h).

(b) No Federal official or agency shall grant an applicant any license or permit for any activity, affecting any land use or water use in the coastal zone of a State, described in detail in any plan for the exploration and development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act and the regulations thereto, until: (1) The State agency concurs with the applicant's certification statement as provided in § 921.6, and notifies the Secretary and the Secretary of the Interior of such concurence; (2) Concurrence by the State agency is conclusively presumed as provided in § 921.6; or (3) the Secretary determines on appeal or following unilateral review of the case, as provided in § 921.6, that each activity which is described in detail in such plan is consistent with the purposes of the Act or is necessary in the interest of national security, or both.

(c) If the State agency concurs or is conclusively presumed to concur with the certification statement, or if the Secretary determines that each activity which is described in detail in the plan is consistent with the purposes of the Act or is necessary in the interest of national security, or both, the applicant will not be required to comply with the procedures of this subpart with respect to any Federal license or permit: (1) Which is required to conduct any activity affecting land uses or water uses in the coastal zone; (2) Which is described in detail in the plan; and (3) To which such concurrence or Secretarial determination applies.

(d) If the State agency objects to the applicant's certification statement and if the Secretary fails to override such objections, or if the applicant fails substantially to comply with the plan as submitted, the applicant shall submit an amendment to such plan, or a new plan, to the Secretary of the Interior. A copy of the amended plan, or new plan, shall be sent to the State agency with a certification statement, together with necessary supporting data and information. The State agency may request, and the applicant shall provide, additional relevant information needed to support the applicant's certification determination. After receipt of a copy of the amended or new plan, certification statement, and accompanying documents, the State agency shall provide public notice and review of the plan and certification statement in accordance with the requirements within § 921.6 paragraphs (d), (g) and (h) of this subpart, except that the applicable time period for purposes of concurrence by conclusive presumption shall be three months instead of six months.

(e) The time for filing or serving any document required by this section shall be subject to the provisions within § 921.5 paragraph (n) of this sub-part.

(f) The Secretarial review proceedings may be dismissed by the Secretary: (1) At such time as the applicant notifies the Secretary that the appeal is withdrawn; (2) At such time as the parties submit to the Secretary a resolution of the matter which is approved by the Secretary; or (3) For other good cause.

(g) The procedures within this section shall also pertain to an objection by a State agency to the continued operation of a Federally licensed or permitted activity described in a plan for the exploration and development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act, and the regulations thereto, which was previously determined not to be subject to the requirements of the management program but which the State agency later maintains is not being conducted in the manner originally proposed and, as a result of this change, is subject to and not consistent with the management program.

§ 921.8 Consistency of Federal assistance programs.

(a) An applicant agency shall, pursuant to the provisions of Title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098), submit its application for Federal assistance for an activity affecting the coastal zone to the State agency for review of whether the activity complies with and will be conducted in a manner consistent with the management program. After reviewing the application, the State agency shall attach a statement to the application, which shall accompany the application through the State and Federal agency review process, indicating whether the proposed activity to be Federally assisted complies with and will be conducted in a manner consistent with the management program; the statement shall include the reasons for the State agency decision, with supporting information. If the State agency does not object to the application, the Federal agency may proceed with its normal processing of the application. If the State agency objects to the application, the Federal agency shall not approve the assistance application except as hereafter provided.

(b) In the event the State agency objects to the application for Federal assistance, the applicant agency is encouraged to consult jointly with the State agency and the Federal agency to determine how the application may be drawn to meet both State and Federal requirements. OCZM shall be available to informally assist the parties in their consultation efforts. If the Federal assistance activity contemplated by a revised application complies with and will be conducted in a manner consistent with the management program, and the State agency concurs with this determination in writing, the Federal agency may proceed with its normal processing of the application.

(c) If a Federal agency receives an application for Federal assistance from an applicant agency to which the State agency has objected, and the parties have been unable to resolve the matter as provided in paragraph (b) of this section. The Federal agency may, within a reasonable time following cessation of the parties' consultation efforts, request that OCZM refer the matter to the

Secretary for a determination as to whether the Federal assistance activity contemplated by the application is consistent with the purposes of the Act or is necessary in the interest of national security, or both. The applicant agency or State agency may also request that OCZM refer the matter to the Secretary for review. In the event of such a request from any of the parties, OCZM shall send a notice requesting review to the Secretary, with copies to the applicant, State and Federal agencies. The agencies shall have 30 days from receipt of the notice to submit to the Secretary their views on the matter, along with supporting information; copies of such views and information shall be sent to the other agency parties.

(d) Following receipt of the parties' views and supporting information, and following receipt of any additional information which the Secretary may request from the parties, the Secretary shall consider the case. The Secretary's consideration of the case shall be guided by the principle that the objection by the State agency shall only be overridden if it is established by a preponderance of the evidence submitted that the proposed Federal assistance activity is either consistent with the purposes of the Act or is necessary in the interest of national security, or both. In reviewing the matter, the Secretary may order a hearing independently or in response to a request by one of the parties; such a hearing shall be subject to the provisions within § 921.5 paragraphs (f) through (i) as appropriately modified by the Secretary to reflect the requirements of this section.

(e) After considering the case, the Secretary shall determine whether the proposed activity is consistent with the purposes of the Act or is necessary in the interest of national security, or both, and shall communicate the decision in writing, with a statement of the reasons therefor, to the applicant, State and Federal agencies. If the Secretary determines that the activity contemplated by the Federal assistance application is consistent with the purposes of the Act or is necessary in the interest of national security, or both, the Federal agency may proceed with its normal processing of the application. If the Secretary does not make any such findings, the Federal agency may not approve the application. The decision of the Secretary shall constitute final agency action for the purposes of the Administrative Procedure Act.

(f) The time for filing or serving any document required by this section shall be subject to the provisions within § 921.5 paragraph (h).

(g) The Secretarial review proceedings may be dismissed by the Secretary: (1) At such time as the Secretary is notified that the moving agency party has withdrawn the request for review and the other agency parties agree to such withdrawal; (2) At such time as the agency parties submit to the Secretary a resolution of the matter which is approved by the Secrteary; or (3) For other good cause.

(h) The procedures within this section shall also pertain to an objection by a State agency to the continued operation of a Federal assistance activity which was: (1) Previously reviewed and approved by the State agency but which the State agency later maintains is not being conducted in the manner originally proposed and is no longer consistent with the management program; or (2) Previously determined not to be subject to the requirements of the management program but which the State agency later maintains is not being conducted in the manner originally proposed and, as a result of this change, is subject to and not consistent with the management program.

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TUESDAY, SEPTEMBER 28, 1976



PART IV:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED, NEGLECTED AND DELINQUENT CHILDREN

Reorganization

Title 45—Public Welfare

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

FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED AND NEGLECTED AND DELINQUENT CHILDREN

Reorganization

In accordance with Section 503 of the Education Amendments of 1972 (Pub. L. 92–318) and pursuant to the authority of Title I of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 241a, et seq.), a notice of proposed rulemaking was published in the FEDERAL REGISTER on March 11, 1975, (40 FR 11472) setting forth (a) in proposed 45 CFR Part 116, the general requirements for local and State educational agencies and certain other State agencies for participation in financial assistance provided under Title I of the Elementary and Secondary Education Act, and (b) in proposed 45 CFR Part 116a, specific requirements for the participation in such assistance of local educational agencies having jurisdiction over school districts or similar political subdivisions in their respective States.

Parts 116b, 116c, and 116d will be published separately.

At present there are no guidelines related to Parts 116 or 116a. Should such guidelines be issued in the future, they will be published in the FEDERAL REGISTER and will be limited to material in the nature of suggestions or recommended courses of action for meeting certain mandatory requirements set forth in the regulations.

1. *Program purposes.* Title I of the Elementary and Secondary Education Act, as amended, provides financial assistance to local educational agencies for programs to meet the special educational needs of educationally deprived children in low-income areas; to State agencies to meet the special educational needs of handicapped and neglected or delinquent children; and to State educational agencies for educational programs for migratory children of migratory agricultural workers or of migratory fishermen; and to such agencies for the administration throughout their respective States of financial assistance provided under Title I.

2. *Section 503 procedures and effect.* Section 503 of the Education Amendments of 1972 requires the Commissioner to study all rules, regulations, guidelines, or other published interpretations or orders issued by him or by the Secretary after June 30, 1965, in connection with, or affecting, the administration of Office of Education programs; to report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives concerning such study; and to publish in the FEDERAL REGISTER such rules, regulations, guidelines, interpretations, and orders with an opportunity for public hearing on the matters so published. The regulations below reflect the results of this study as it pertains to the program under Title I of the Elementary and Secondary Education Act, as amended. All preceding rules, regulations, guidelines, and other published interpretations and orders issued in connection with or affecting Part 116 will be superseded when this regulation becomes effective.

3. *Effect of Office of Education General Provisions Regulations.* General fiscal and administrative rules for the programs are covered under the overall Office of Education General Provisions Regulations, published in the FEDERAL REGISTER at 38 FR 30654 (November 6, 1973), and now set forth in 45 CFR Parts 100–100c, in connection with the same study under Section 503 of the Education Amendents of 1972 of which this publication is a part. (Reference is made in particular to the provisions of Part 100b of Title 45 CFR, containing general provisions for State administered programs, which would be applicable to the programs under Title I of the Elementary and Secondary Education Act, as amended.)

4. *Reorganization of Part 116.* Part 116 has been limited to those provisions that are applicable to all grantees, including State educational agencies in their administrative capacities, under Title I of the Act. Also, a number of provisions have been deleted and are now incorporated in the Commissioner's general regulations in Part 100b of Title 45. Each of the four new parts contains provisions which are applicable to grantees in one of the four categories specified in the legislation, as follows: 116a—Local educational agencies, 116b—State agencies directly responsible for providing free public education for handicapped children, 116c—State agencies directly responsible for providing free public education for children in institutions for neglected or delinquent children, and 116d—State educational agencies as applicants for grants for educational programs and projects for migratory children of migratory agricultural workers or of migratory fishermen. Under the proposed five-part organization of the regulations, a grantee agency would be able to refer to Part 116 and the appropriate part designated for such agency.

5. *Amendments made by Pub. L. 93–380.* The regulation set forth below reflects and implements amendments made to Title I of the Elementary and Secondary Education Act by Pub. L. 93–380, the Education Amendments of 1974. In particular, the regulation makes conforming changes in, or additions to, the current regulation relating to allocation of funds; participation of children enrolled in private schools; special grants (part C of Title I); comparability; parent advisory committees; designation of project areas; use of funds for training; and other matters affected by Pub. L. 93–380. (Changes in the regulation to conform to Pub. L. 93–380 with regard to State agency programs to meet the special educational needs of handicapped children; neglected or delinquent children; and migratory children of migratory agricultural workers or of migratory fishermen will be published separately as parts 116b, 116c, and 116d, respectively.)

6. *Citations of legal authority.* As reqired by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232 (a)) and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each section of the regulations has been placed in parentheses on the line following the text of the section.

On occasion, a citation appears at the end of a subdivision of the section. In that case the citation is to all that appears in that section between the citation and the next preceding citation. When the citation appears only at the end of the section, it applies to the entire section.

7. *Opportunity for public comment.* Pursuant to section 503(c) of the Education Amendments of 1972, the Commissioner provided interested parties an opportunity for a public hearing on the proposed regulations on April 10, 1975. The purpose of the hearing was to receive comments and suggestions on the published materials. Additionally, an opportunity was provided to submit written comments and suggestions. Written comments were received from officials in 26 States and 144 local educational agencies, representatives of eight organizations, and numerous individuals. Additionally, informal comments were received at three regional meetings for State administrators and at a national meeting for parents.

8. *Summary of comments and responses.* The following is a summary of pertinent comments relating to the language of the regulations and the responses setting forth changes which have been made in the regulations as a result of the comments, or the reason why no change is deemed necessary. Specific comments are arranged in order of the section of the regulation to which they pertain. Where the section number in the final regulations differs from that in the proposed rule, the proposed rule section number is also identified. Other changes made in the final regulations, not based on comments, appear after the comments and responses for each of the two parts.

PART 116

§ 116.2 *Definitions.* 1. *Comment.* Most of the comments on this section suggested changes to definitions that were taken directly from the statute.

Response. Although no changes could be made to these definitions as mandated by statute, to avoid further confusion, these definitions are now being incorporated by reference in § 116.2(b), rather than being restated or paraphrased. For the added convenience of the reader, the text of the Title I statute is included as an Appendix to the regulation.

2. *Comment.* A few commenters indicated a preference for a definition of "educationally deprived children" modelled on the definition of "educationally disadvantaged children" in section 417 (a)(2) of the General Education Provi-

sions Act (GEPA) which provides that for the purpose of the Secretary's Annual Report that term " * * * refers to children who are achieving one or more years behind the achievement expected at the appropriate grade level for such children."

Response. The requested change was not adopted. Although the definition in section 417(a)(2) of GEPA could have been adopted for use for children in regular school programs above grade 2, the below grade level standard it imposes would not have been suitable for the participation of preschool children, handicapped children, and children in institutions for neglected or delinquent children. Therefore, rather than having different standards for each type of child, the standard of "educational attainment . . . appropriate for children of their age . . . ," which has the widest applicability to children served by local educational agencies (LEA) under Title I, was maintained. Since the definition of "educationally deprived children" only applies to the local educational agency program, it has been transferred to § 116a.2 of the regulation.

§ 116.3 *Participation of States—Comment.* Several commenters on this section requested more specificity in the content of the annual program plan.

Response. Since there is no intent at this time to add regulatory requirements to those applicable in Section 142 of the Title I statute and Section 434 of GEPA and Parts 100 and 100b of this chapter, no further specifications were added.

§ 116.4 *State administration and technical assistance—Comment.* Three commenters raised questions concerning whether the unused amounts of a State's allocation for State administration at the end of the period of availability of funds could be used for program purposes.

Response. No change was made in the regulations. Such allocations are available only for the proper and efficient administration of programs under Title I. The statute makes no provision for the reallocation of these funds to other agencies. Therefore, unused amounts from such allocations revert to the U.S. Treasury.

§ 116.5 *Approval by the State educational agency of applications from applicant agencies.* (Proposed § 116.6)—1. *Comment.* With respect to proposed paragraph (b), "Notice and opportunity for hearing," one commenter asked that the regulations require the State educational agency to inform the local educational agency of the reasons for which an application has been disapproved.

Response. This paragraph, now designated as (c), has been revised to incorporate such a provision.

2. *Comment.* With respect to proposed paragraph (d), "Availability to the public," two commenters recommended that parties interested in reviewing documents related to a project be required to request such documents from the local educational agencies before requesting such documents from the State educational agency.

Response. This requested change was not adopted. It was believed to be in the best interests of the general public information requirements of Title I and GEPA to allow interested parties the greatest amount of flexibility to obtain relevant information. Such parties may choose, for reasons of their own, such as the time and expense involved or the nature of their request, to contact the State educational agency rather than local educational agencies (and other applicant agencies).

§ 116.6 *Review and complaint procedures.* (Part of proposed § 116.7(b))—*Comment.* In general, with respect to complaints, a few commenters stated that the complaint procedures were difficult to find as part of the section on "Reports by State educational agencies," and recommended that a new separate section on complaint procedures be added. Some of these commenters suggested that this new section contain requirements that the State educational agency set up complaint procedures and submit them to the Commissioner within 120 days of the publication of this final regulation. It was requested that such procedures include:

(a) Provision of a hearing within thirty days of the filing of the complaint;

(b) An opportunity for the complainant to review or comment on the report filed by the applicant agency before the final disposition of the complaint; and

(c) The written communication of the disposition of the complaint and the basis for such disposition to the complainant within ninety days of the filing of the complaint.

Response. A new separate section requiring the establishment of complaint procedures has been set up as recommended. However, it was believed to be unnecessary to require the State educational agency to submit the procedures to the Commissioner, and therefore, in the interests of not requiring additional submissions, this suggestion was not adopted. Additionally, rather than requiring that a hearing be provided to every complainant, the State educational agency is only required to give the complainant the opportunity to present evidence. It was believed that the State educational agency should be given some flexibility in determining the manner in which such evidence is to be presented. The State educational agency may, of course, decide that, in a particular case, a hearing is necessary.

§ 116.7 *Reports by State educational agencies.*—1. *Comment.* A few commenters on paragraph (a), "Annual evaluation reports," stated that, the forthcoming change in the dates of the fiscal year as set forth in Pub. L. 93-344, whereby a fiscal year will run from October 1 to September 30 rather than July 1 to June 30 (beginning with fiscal year 1977) may make it impossible to prepare evaluation reports by November 15.

Response. The section has been revised to indicate that the evaluation report, as always, covers the usual period of a Title I program, the period from the beginning of the preceding regular school term through the end of summer following that term and, therefore, is not affected by the change in fiscal year. Consequently, the new fiscal year will not change the reporting period for the State evaluations. It should be noted that, in accordance with Section 151(g) of the Act, the Commissioner is required, no later than January 31 of each year, to report the results of the evaluations of Title I programs to the Congress, and therefore, in order to meet this requirement, the Commissioner must have the reports of the State educational agency by November 15.

2. *Comment.* Several commenters suggested that the State reports concerning complaints as set forth in paragraph (b), which are submitted to the Commissioner, also be furnished automatically to the complainant and the local educational agency.

Response. These comments are reflected in the last subparagraph of § 116.7. It should also be noted that, in accordance with § 116.45, any member of the public may request such reports from the applicant agency.

3. *Comment.* A commenter suggested that the State educational agency furnish the Commissioner with copies of any formal reports by an applicant agency concerning a complaint.

Response. This suggestion was not adopted. The regulatory provision requires that the State educational agency submit a report to the Commissioner which gives a summary of results of the investigation of a complaint and any hearings held concerning the allegation, and a statement of the disposition of the matter, and the reasons for the disposition. It does not seem necessary for the Commissioner to carry out his or her responsibilities to require initially reports by an applicant agency in every complaint. Of course, if the State educational agency's report is not sufficient, the Commissioner may request further information, including the report of the applicant agency.

4. *Comment.* Several commenters indicated the need for well defined deadlines applying to the handling of complaints and submitting of reports to the Commissioner by the State educational agency.

Response. The report section now includes a requirement that if a complaint cannot be handled within sixty days from the filing of the complaint, an interim report should be filed by the State educational agency with the Commissioner, explaining the status of the matter.

§ 116.19 *Maintenance of effort—Comment.* Two commenters raised questions as to whether the maintenance of effort requirement applied to private schools.

Response. No change was made in the regulations. The expenditures of private schools enrolling children participating in the Title I program are not included in the requirement of § 116.19, because such expenditures are not part of the "combined fiscal effort * * * of

that (local educational) agency and the State with respect to the provision of free public education by that agency * * *," (emphasis supplied) as set forth in Section 143(c)(2) of the Act.

§ 116.30 *Planning grants.* (Proposed § 116.39)—*Comment.* A few commenters asked for clarification concerning the source of funds for planning grants.

Response. No change was made in the regulation. Any funds requested for a planning grant must be taken from the applicant agency's allocation. Planning expenditures are listed in Section 141(a)(1) of the Act as allowable expenditures along with other expenditures which come out of an applicant agency's Title I allocation. Additionally, the funds available for planning for any fiscal year which is set forth in Section 141(a)(1) of the Act, is limited by the size of the agency's allocation for that fiscal year.

§ 116.32 *Construction and equipment.* (Proposed § 116.38)—*Comment.* Several commenters wanted a more definitive treatment of the criteria to justify the use of Title I funds for construction or equipment.

Response. No change was adopted. Because of the varied nature of the projects, it would be difficult if not counterproductive to supply specific criteria. The first sentence of paragraph (a), contains a generally applicable standard that the acquisition of equipment and construction are allowable when such equipment or construction "is demonstrated as being essential to the success of a program or project under Title I of the Act." Any request for construction or equipment is an assertion by the applicant agency that the project cannot be accomplished with existing school facilities or equipment. Such a determination can be made initially on a case-by-case basis by the State educational agency which may request whatever information is necessary from the applicant agency to demonstrate that facilities other than those acquired with Title I funds are not available for use in its proposed project.

§ 116.33 *Reimbursement for expenses incurred by parent council members and volunteers.* (Proposed § 116.40)—1. *Comment.* Two commenters suggested that Title I funds be used to compensate council members or volunteers for loss of salary or wages.

Response. No change was made in the regulations. The general standards for allowable costs as set forth in Appendix B which applies to Title I through Part 100b of this chapter (see 45 CFR 100b.81), are that the costs "be necessary and reasonable" to the proper administration of the grant program. In only the most limited circumstances would the compensation of a council member be allowable as necessary to the operation of the council, and not subject to an audit exception. This matter would ultimately have to be judged on a case-by-case basis. The compensation of a volunteer is not consistent with the status of a volunteer.

2. *Comment.* Five commenters asked for clarification concerning the types of expenditures allowable under this section.

Response. No change was made in the regulations. Further specification in the regulations is considered inappropriate because it would be too restrictive to try to anticipate the numerous ways in which this question would arise. State educational agencies in reviewing project applications must determine on a case-by-case basis that the proposed activities for parent councils and volunteers are appropriate, likely to be effective, and are set forth in sufficient detail to determine whether the expenses incurred will be within the scope of the approved project. Guidance in general is provided in the cost principles contained in Appendix B to Part 100b of this chapter which states that the costs must be "necessary and reasonable for proper and efficient administration of the grant program."

§ 116.34 *Education aides.* (Proposed § 116.32)—*Comment.* Some commenters wished to have the required training directed to the aides and not to the professional staff they assist.

Response. No change has been made in the regulations. This section is taken directly from the statute, section 141(a)(12), which requires joint participation of both aides and professional staff when a title I project includes aides. Both professional staff and education aides may, of course, also receive separate training in accordance with the provisions of § 116.36, "Training."

§ 116.36 *Training.* (Proposed § 116.42)—*Comment.* Several commenters expressed concern that paragraph (b), "Supplementary training for specialists and classroom teachers," in the proposed § 116.42 might lead to widespread use of Title I funds for training that is not directly related to Title I programs.

Response. Appropriate changes have been made in the regulations to indicate more clearly that all training provided with Title I funds must directly relate to the Title I services provided to educationally deprived children and to the objectives of the Title I program serving such children.

§116.40 *Title I funds supplementary to State and local funds.* (Proposed § 116.30)—1. *Comment.* One commenter pointed out that the reference in subparagraph (a)(1), "General," to a project area was inappropriate since the paragraph is applicable not only to local educational agencies that have project areas, but also to State agencies that do not have such areas.

Response. The reference to project areas has been deleted.

2. *Comment.* Several commenters expressed concern about, or requested clarification of the term "ordinarily provided" as it was used in subparagraph (a)(2), particularly as it applied to State and locally funded compensatory programs.

Response. The clause containing this term was deleted. Since other provisions of the regulations clearly indicate that services generally provided for all children are not to be paid for from Title I funds there is no need for this clause. A similar provision has been inserted in § 116a.22(b)(10), and modified to address the issue of the use of Title I funds by local educational agencies when State and local funds are being used for purposes that are similar to those of Title I.

3. *Comment.* Several commenters disagreed with the prohibition in paragraph (b), "Services which applicant is required to provide," against using Title I funds to provide educational services in programs which are required by State law or by other Federal laws. The commenters felt that if Federal law or a court order required certain services, Title I funds ought to be made available to provide such services.

Response. No change was made. The prohibition in this paragraph, which is an application of the "supplement not supplant" concept, presumes that where the applicant is required by statutes or court order to provide certain services, such services would be provided in the absence of Title I funds. If a program mandated by State or Federal law receives sufficient State and local funding to meet the requirements of the appropriate law, then Title I money can be used to supplement the services available from such funding.

§ 116.41 *Relation of Title I projects to other programs.* (Proposed § 116.31)—*Comment.* Some commenters wanted a specific reference to community action agencies in paragraph (a) to make it clear that such agencies have an advisory role in reviewing an application.

Response. No change has been made. There is no basis in the statute for a regulation requiring a specific type of agency to be involved in the coordination and review process. Contrary to the assumptions made by several of these commenters, the statutory provision after which this section was modeled, section 803(c) of the Elementary and Secondary Education Act, does not require that any such agency have an advisory role in the development of Title I programs. Such agencies are, of course, considered to be among those which may be able to provide services that meet some of the needs of educationally deprived children and such agencies are among those whose review of the application would therefore be relevant. Each local educational agency is expected to avoid using Title I funds for services that could be supplied by another agency, including a community action agency.

§ 116.43 *Measurement of educational achievement and evaluation of programs.* (Proposed § 116.33)—*Comment.* Several commenters wanted to know whether the evaluation of educational achievement among private school children participating in a Title I program as set forth in paragraph (c) was the responsibility of the private school or the applicant agency.

Response. No further change was made in the regulations. The applicant agency as the grantee, must ensure that an evaluation of all projects serving Title I children, including those attending private schools, is conducted at least annually, consistent with Section 141(a)(6) of the Act.

§ 116.44 *Dissemination and utilization of results of educational research and demonstrations.* (Proposed § 116.34)—*Comment.* A few commenters suggested that this section, which provides for the dissemination of certain research information to teachers and administrators, be amended to include not only teachers and administrators but also parent council members in local educational agency programs.

Response. No change has been made in the regulation. This provision tracks the statutory provision in Section 141(a)(10) of the Act, which is written in general terms. It is expected that the specific training programs for local educational agency parent council members covered by § 116.36, "Training," would include the dissemination of appropriate research information. Additionally, such materials would be available to parent council members in local educational programs in accordance with § 116a.25(g).

§ 116.45 *Public information.* (Proposed § 116.35)—*Comment.* Five commenters wanted clarification on how long a local educational agency is required to keep information on Title I programs.

Response. To address these comments, a new sentence has been added to the regulations to specify that such information must be made available for five years after the completion of a Title I program or project or, in the case of an audit, until the resolution of such audit in accordance with Section 434(a) of the General Education Provisions Act.

OTHER CHANGES IN PART 116

1. Several typographical and technical corrections have been made and certain sections have been reorganized or renumbered.

2. A definition of "child or children" has been added to § 116.2(a) to conform to program administration.

3. A definition of "applicant agency" has been added in § 116.2 to simplify references to grantee agencies in Part 116.

4. Definitions in § 116.2 which were taken from the statute, have been eliminated and replaced by a cross reference to the statutory provisions. It should be noted that the text of the statute is attached.

5. In § 116.3(a), the assurances to be provided in the Annual Program Plan have been deleted and replaced by a cross reference to the statutory provisions.

6. In § 116.4(b), the specific amount of administrative funds has been deleted, and the statutory provision incorporated by reference.

7. A new paragraph (b) has been added to incorporate language in previous Title I regulations (before the publication of the General Provisions Regulations in Part 100 of the Chapter), which makes the effective date of an appplication the date on which the State educational agencies receives it in substantially approvable form. This provision, inadvertently removed from the Title I regulations, is consistent with the general rule for effective dates in § 100b.35 of this Chapter.

8. Section 116.5(c) adds a requirement that the notice of a decision from the review of an application given the applicant agency by the State educational agency, include the reasons for the proposed disapproval, in accordance with Section 425 of General Education Provisions Act.

9. The second sentence of § 116.7(a), concerning the content of State evaluation reports, was deleted pending the results of a study on uniform State evaluation models which is now being conducted by the Office of Education in accordance with Section 151(d) of the Act. Until the results of the studies are available, it is suggested that the evaluations include information on the types of educational and supportive services provided, parental involvement, the participation of public and private school children, the number and categories of staff employed, the nature and extent of the inservice training provided, a summary of the results of objective measurements of changes in the educational attainment of educationally deprived children who participated in programs and projects, and the results of research and replication studies conducted in the State pertaining to programs for educationally deprived children.

10. The last phrase of § 116.18, prohibiting Title I funds from being considered in the determination of State aid, has been reworded to clarify that Title I funds cannot be considered in such a way as to penalize an applicant agency in the amount of State aid it receives. This change would permit applicant agencies to be eligible for and receive additional State funds on the basis of their Title I eligibility.

11. A new paragraph (e) in § 116.19 clarifies the effect of the maintenance of effort provision on an applicant agency which derives ninety-five percent or more of its funds for education from Federal sources. Such agency will not be required to show maintenance of effort of State and local funds under this section.

12. Section 116.41(c) emphasizes that funds currently available through State and local categorical programs which are appropriate for funding components of the Title I programs must be utilized, rather than Title I funds.

13. Consistent with Section 141(b) of the Act, a new § 116.47, "Individualized educational plans" (formerly § 116a.22), has been added to Part 116 to apply to all Title I programs.

14. A new § 116.48, "Operational responsibilities" clarifies that the approval of an application does not relieve the applicant agency of the responsibility to carry out the Title I program in accordance with statutory and regulatory requirements.

PART 116a

§ 116a.1 *Applicability — Comment.* Commenters on paragraph (a), "Regulations for local educational agencies," suggested that it be reworded in line with the statutory requirement that Title I programs and projects be provided for educationally deprived children in school attendance areas with high concentrations of children from low-income families.

Response. This recommended change was adopted and the statutory language is being utilized.

§ 116a.5 *Allocation of county aggregate grants by State educational agencies*—1. *Comment.* Three commenters raised questions whether local educational agencies are required to provide Title I services for children in local institutions for neglected or delinquent children.

Response. The last sentence of paragraph (b) has been clarified to indicate that if a local educational agency receives an allocation based partially or wholly on the number of such children in accordance with Section 103(c)(1)(C) of the Act, then Title I services must be provided for them. If an approvable Title I program is not provided for such children by the local educational agency receiving the allocation based on such children, the State educational agency shall either assume the responsibility or find another agency to provide the services using that portion of the grant that was based on the number of such children, as is specified in Section 103(a)(3)(A) of the Act. If such services are not provided, then the funds attributable to such children are not available for other purposes and revert to the U.S. Treasury.

2. *Comment.* Commenters noted that the 1970 census data do not reflect the most current distribution of children from low-income families for the purposes of subcounty allocations, and that modifications should be made accordingly.

Response. Appropriate changes have been made. Paragraph (c), "Allocation of remainder of county grant," has been reworded to permit, but not require, the State educational agency to choose data other than the 1970 census, as the current data, as long as it is consistent with the purposes of Title I of the Act and approved by the Commissioner. The paragraph also now indicates the types of data considered acceptable.

§ 116a.10 *Further assistance to certain local educational agencies—Comment.* The commenters on this section were of the opinion that it departed from the intent of the statute (Section 101(a)(10) of Pub. L. 93-380), which is to raise the allocations of those local educational agencies which were held down to or raised to 85 percent of their previous year's allocations.

Response. This section has been revised to indicate that all such agencies would have their allocations raised to 90 percent of their previous year's funding. It should be noted that implementation of this section requires a separate Congressional appropriation.

116a.19 *Project applications—Comment.* Comments on this section were directed at the provision for the participation of children residing outside the project area with recommendations that it be deleted, because the need for Title I services within areas designated for projects is so great that the

provision is unnecessary and counterproductive.

Response. This provision has been deleted. However, the authorization to serve educationally deprived children who reside outside of a project area has been rewritten for added clarity and is included in § 116a.22(b)(9), "Project description, size, scope, and quality." The added criteria in this provision are to further ensure that such children can only be included when their participation does not impair the effectiveness of the project for eligible children residing in the project areas, nor increase the cost of the project. It should be remembered that, even if the inclusion of children residing outside of the project areas meets these criteria, the local educational agency has the discretion to not serve such children.

§ 116a.20 *Selection of Title I attendance areas*—1. *Comment.* A number of commenters questioned the continuation of the requirement that Title I projects be located in areas with above-average concentrations of children from low-income families, suggesting that it be deleted.

Response. This requirement has been retained. Section 141(a)(1)(A) of the Act states that Title I funds be used for programs which are designed to meet the needs of "educationally deprived children in school attendance areas having high concentrations of children from low-income families." The regulatory requirement questioned is a reasonable interpretation of "high concentrations." Administrative experience indicates that such a requirement is a necessary one. Congress, in the legislative history to the Education Amendments of 1969 (Pub. L. 91–230) (Sen. Rept. No. 91–634, p. 9 (1970)), recognized that the selection and the use of Title I funds in proper project areas was an issue in which special Federal guidance and supervision was needed.

2. *Comment.* (a) Several commenters noted the change in paragraph (b)(2), "Eligibility of attendance areas," which designates project areas as school attendance areas in which 30 percent of the children are from low-income families. Some of those commenters said the provision should be deleted, since it gives the local educational agencies too much discretion.

(b) Others asked that the determination of the number of children from low-income families for this purpose be made on the basis of a more current criterion of poverty than that used in the latest Decennial Census.

Response. (a) The "30 percent" rule has been retained. This provision is consistent with the legislative history expressed in the House Report for the Education Amendments of 1974 (Pub. L. 93–380) (see House Rept. No. 93–805, pp. 16–17 (1974)) and in the legislative history to the Elementary and Secondary Education Amendments of 1966 (Pub. L. 89–750) (see House Rept. No. 1814, p. 3 (1966)).

(b) A new sentence has been added to the end of § 116a.20(b)(2) requiring that a determination of 30 percent incidence of poverty be made on the basis of data showing the eligibility of children to receive free lunches under the National School Lunch Act. School lunch data are the most current and most accessible data available for application to this provision.

3. *Comment.* Many commenters requested the addition of a specific provision for determining the eligibility of attendance areas on the basis of separate averages and separate rankings for elementary, middle or junior high, and high schools. For example, a local educational agency with one high school or an agency with several overlapping attendance areas for different grade spans could be prevented from providing Title I services to the children it considered most in need if only one district-wide average were used.

Response. Appropriate provisions have been added in a new subparagraph (b)(5) so that local educational agencies have greater discretion to select areas with high concentrations of children from low-income families and may, at their option, use separate averages and separate rankings by grade span in the selection of areas for projects.

4. *Comment.* A few commenters stated they considered the provision in paragraph (d), "Districts with no wide variance in the incidence of poverty," for determining whether a district has "no wide variance" in the number of children from low-income families (so a district-wide program could be conducted) to be too strict. The commenters recommended that the permissible variance based on one-third of the district-wide percentage be increased to one-half of that percentage, or that such variance be a fixed percentage regardless of the district-wide average. Several commenters approved of the one-third standard and requested that it be maintained.

Response. No change has been made in the regulations. The legislative history of Pub. L. 89–10, the Elementary and Secondary Education Act of 1965, which established Title I, indicated that only in limited circumstances may a whole school district be considered eligible as a "low-income area." (See Sen. Rept. No. 146, p. 9 (1965)). A further broadening of the "no-wide variance" standard would be inconsistent with this history, and with the requirement in Section 141(a)(1) that the areas selected have "high concentrations of children from low-income families."

§ 116a.21 *Needs assessment*—1. *Comment.* Of the many commenters on this section, several stated that a comprehensive needs assessment every year in accordance with paragraph (c) is unnecessary. Conversely, other commenters asked that the section on needs assessment be expanded to give more guidance on the information and analysis of the data necessary for an adequate needs assessment.

Response. As a result of these comments, this section has been extensively revised to give greater clarity on information to be gathered, and steps to be undertaken to use this data. Paragraphs on "Diagnostic Procedures" and "Consultation" have been added. Where feasible, the use of existing data is authorized, to ease the annual data-gathering burden on the local educational agencies. However, since eligible attendance areas may change every year, and annual evaluations required by the statute must be examined to make appropriate changes to the project, some data will probably need to be collected every year.

2. *Comment.* Some commenters felt that the emphasis on reading and mathematics was too restrictive and should be eliminated, while others felt it to be justified and suggested it be kept.

Response. Because of the disparity of viewpoints expressed, this emphasis has been altered in paragraph (a) to allow the local educational agencies more flexibility in performing their needs assessments. The provision in question is written in terms of giving emphasis to "the agency's basic programs of instruction."

3. *Comment.* Some commenters expressed the need for a requirement for objective needs measurement and the listing of specifications for such measures.

Response. No change was made in the regulations. Because of the disparity of viewpoints in this field, this area was felt better left to the expertise of the particular local educational agencies. The publication of guidelines on this subject in the FEDERAL REGISTER is being considered.

Whether or not a particular needs assessment is adequate to determine the needs for a particular project must be made on a case-by-case basis.

4. *Comment.* Several commenters felt that the term "dropout" was ambiguous and should be replaced by words which would more effectively refer to school age children not receiving an education.

Response. An appropriate change was made in paragraph (a) to include "children of school age not enrolled in a school."

5. *Comment.* Several commenters asked for a clarification of the requirement in the proposed § 116a.22(b) that only educationally deprived children be served who have the greatest need. These commenters suggested that a provision be added to give local educational agencies the discretion to also serve children residing in a project area who were served in the Title I project in the previous year who had made educational gains, and were no longer the children with the greatest need but who were still performing below the level appropriate for their age level.

Response. An appropriate addition was made in § 116a.21(e) to give local educational agencies the discretion to serve such children.

§ 116a.22 *Project description, size, scope, and quality.* 1. *Comment.* Some general comments submitted on § 116a.22 indicated that former paragraphs (b), "Children to be served," and (c)(1), "Needs to be served," should be clarified as they relate to each other and to § 116a.21, "Needs assessment."

Response. Accordingly, § 116a.22 has been rewritten to be more internally consistent and to provide a clearer indica-

tion of the relationship of Title I services to the educational needs of children identified in § 116a.21. Paragraph (a), "Project description," brings together requirements previously scattered throughout § 116a.22, which indicate what information should be in a local educational agency's project application. Paragraph (b) sets forth the standards by which the State educational agency will examine this data.

2. *Comment.* Several commenters protested the inclusion of proposed subparagraph (c)(2) which would make it clear that Title I services may be offered in the presence of non-participating children. These commenters objected that this subparagraph might be interpreted as allowing the use of Title I funds for the general aid of the school.

Response. A revision has been adopted in subparagraph (b)(8) to make it clear that, while Title I services may be provided for identified children in their regular classrooms or in other similar settings with other children present, Title I services must be directed only to the selected Title I eligible children.

3. *Comment.* A recommendation was made that in the proposed paragraph (d), "Size, scope, and quality," a reference to prior program evaluations be included as a basis for determining size, scope, and quality of the proposed programs.

Response. No change was made to this section. Prior program evaluations are to be taken into account in the needs assessment as specified by § 116a.21(a), and, therefore, are a part of the project design. These evaluations may also be used in determining the appropriate size, scope, and quality of the project, but it is left to the discretion of local educational agencies and State educational agencies as to whether it is actually to be used in the manner suggested.

4. *Comment.* A number of commenters objected to the last sentence of the proposed paragraph (d) requiring a justification for any Title I expenditures above the level normally expended by the local educational agency for any "comparable activities." They objected on the grounds that Title I funds are not to be used in any event for "comparable activities," which are paid for by State and local funds.

Response. The sentence has been deleted. It was intended to ensure that the levels of expenditure for personnel or materials for Title I activities are comparable to expenditures made by the local educational agency from State and local funds. However, its purpose is also covered by the preceding sentence concerning extravagant or imprudent expenditures, and the "supplement, not supplant" requirements of § 116.40.

§ 116a.23 *Participation by children enrolled in private schools.* 1. *Comment.* Two commenters were opposed to providing any services to non-public school children.

Response. No change was made in the regulation. This provision is derived directly from Sections 141(a)(2) and 141A of Title I.

2. *Comment.* Two commenters suggested that a precise definition of private schools be added to the Title I regulations.

Response. No such addition has been made. Any private elementary and secondary school as defined in Section 100.1 of this Chapter may be considered to be a private school for Title I purposes.

3. *Comment.* A high proportion of commenters on this section stated that the words "* * * therapeutic, remedial, or welfare services, health services, school breakfast for poor children and guidance counseling services * * *" used in paragraph (f), "Limitations on availability of services in other than public school facilities," may be misleading and in conflict with the requirements of the sections on "Needs assessment" and "Project design" because they place an undue emphasis on non-instructional services.

Response. No changes have been made. These illustrations are taken from the passages of the legislative history of Pub. L. 89-10 (Sen. Rept. No. 146, p. 12 (1965)), which form the basis for the provisions in question.

4. *Comment.* Many of the same commenters referred to in item 3 above also objected, for similar reasons, to the use of the words "dual enrollment, educational radio and television, and mobile educational services and equipment," in paragraph (a), "General requirements."

Response. These words are found in Section 141A(a) of the Act and have been retained.

5. *Comment.* Many commenters found the phrase in paragraph (a) "* * * a geographical area reasonably coterminous with the project area," to ambiguous and requested that it be clarified or deleted.

Response. The phrase has been deleted from the regulations. It was intended to apply primarily to Title I programs being conducted at private schools which serve children, nearly all of whom are from the project areas but with a few children residing just outside the project area, but the words "a geographical area, reasonably coterminous" were difficult to apply. Paragraph (9) of § 116a.22(b), "Size, scope, and quality," however, does provide for the participation of educationally deprived children not residing in eligible attendance areas, if such participation meets certain requirements including that it does not impair the effectiveness of the program for the participating children from the project areas for whom the project was designed.

6. *Comment.* Two commenters wanted paragraph (b) to provide that the local educational agency consult with **official** designees of private schools, rather than "persons knowledgeable" of the needs of private schools in making a determination of the special educational needs of private school children.

Response. No change was made in the regulations. The local educational agency is the grantee and is required by Section 141(a)(3) of the Act to maintain public supervision and control, and it was believed appropriate to give it flexibility to determine the appropriate persons to consult who are knowledgeable of the needs for Title I services by eligible private school children.

7. *Comment.* Two commenters requested that paragraph (d) be changed so that the local educational agency would be permitted to provide an assurance, rather than specific information, that it had conducted a needs assessment for private school children.

Response. No change was made to reflect this comment. The statute in Section 141(a) requires that Title I services be designed to meet the special educational needs of educationally deprived children in eligible areas, whether they be enrolled in public or private schools. To determine this, a needs assessment must be conducted for all such children and sufficient information put in a local educational agency's application to enable the State agency to determine that an adequate needs assessment was undertaken. To meet the requirement of "participation on an equitable basis for eligible private school children" in accordance with Section 141A of the Act, an equitable needs assessment and similar data would have to be presented for private school children as well as public school children and other types of children as indicated in § 116a.21(a).

8. *Comment.* Several commenters stated that the regulations should require that instruction in the basic skills be provided to private school children selected to participate in the project.

Response. Paragraph (d), "Design of projects," in § 116a.23 has been revised to incorporate by reference the requirements of § 116a.21 concerning needs assessment which requires in paragraph (a) that data on performance in the basic programs of instruction be considered for all children.

§ 116a.23-1 *Participation by children enrolled in private schools*—1. *Comment.* Several commenters noted the use of the term "equitable basis" in paragraph (c) and asked that it be amplified.

Response. No change was made in the regulations. The term is taken from Section 141A(b)(2) which speaks of a local educational agency that "* * * has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools * * *" General guidance for determining whether this provision is met is given in paragraphs (a), (b), and (c) of § 116a.23. As set forth in paragraph (c) of that section, a child enrolled in a private school who is selected to participate in a Title I program because of his or her special educational needs must receive Title I services that are "comparable in quality, scope, and opportunity for participation to those provided to public school children with needs of equally high priority." Beyond this, delineation of the standard is properly left to case by case determination.

2. *Comment.* A few commenters asked whether a State educational agency's entitlement to funds for the administration of the Title I program in its State under Section 143(b) of the Act would be decreased in the event that the Commissioner of Education withdrew a portion of the allocation for local educational agencies for the purposes of pro-

viding services for private school children in accordance with Section 141A of the Act.

Response. A clarifying statement has been added to § 116a.23–1(d) which indicates that a proportionate amount of State administrative funds may be deducted for this purpose except that no State may receive less than $150,000 in accordance with Section 143(b) of Title I. Section 141A(b)(3) provides that the arrangements necessary may be paid "from the appropriate allocation or allocations." Additionally, since Section 143(b)(1) of Title I requires the allocation to State educational agencies of " * * * 1 per centum of the amount allocated to the State and its local educational agencies," the withdrawal by the Commissioner of a portion of the allocations to one or more local educational agencies in a State would result in the reduction of the State's allocation under that section and a reduction in its administrative responsibilities.

3. *Comment.* Two commenters asked for clarification as to whether the State educational agency could have the authority to review any contracts the Commissioner may enter into as a result of exercising the by-pass provisions.

Response. While no change has been made in the regulations, it should be noted that, as stated in Section 141A(b)(3) of the Act, "When the Commissioner arranges for services pursuant to this section, he shall, after consultation with appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under this title." Officials of the State educational agency would be considered among the "appropriate public school officials" for this purpose.

§ 116.25 *Parent advisory councils*—1. *Comment.* A large number of commenters were opposed to the establishment of parent advisory councils at the school level, or were opposed to school advisory councils for small school districts or for schools receiving small Title I grants. The suggested definitions of a small grant ranged from $10,000 to $100,000 and the suggested levels for small school districts ranged from 3,000 to 10,000 enrolled students.

Response. No change has been made as a result of these comments. The requirement that there be councils at every school served is stated in Section 141(a)(14) of the Act. The regulations permit a local educational agency with less than 1,000 children enrolled in all project schools to have the district advisory council also serve as the council for each of its schools.

2. *Comment.* Three commenters suggested that the regulations mandate State parent advisory councils.

Response. Unlike other Federal programs in elementary and secondary education, there is no requirement in Title I of the Act for a State advisory council. Moreover, the nature of the Title I program is such that it would not be appropriate to require State advisory councils in order to increase the effectiveness of local programs. A State educational agency, is free to form a State parent advisory council if it finds such a council would increase the effectiveness of its administration of the Title I program.

3. *Comment.* One commenter wanted the State educational agency, in conjunction with appropriate consumer groups, to develop a specific list of required activities to be carried out by each parent advisory council.

Response. No change was made in the regulations. Paragraph (g), "Involvement of councils," already gives guidance as to the type of activities in which parent councils are to be engaged, consistent with Section 141(a)(14)(C) of the Act. In addition, paragraph (h), "Additional rules and procedures," permits the State educational agency to issue additional rules and procedures, not inconsistent with the regulations, which may be necessary to ensure the proper functioning of the parent councils. However, it is left to the discretion of the State agency as to whether such additional rules and procedures are adopted.

4. *Comment.* Eleven commenters wanted the regulations to restrict participation in selection of parent advisory council members to only those parents whose children were eligible to receive Title I services in a particular attendance area.

Response. No change has been made in the regulations. The current regulations regarding selection are taken directly from Section 141(a)(14)(B) of the Act which states that parent advisory council members must be "selected by the parents in each school attendance area." To further restrict the selection process would be inconsistent with Section 421(c)(2)(B) of the General Education Provisions Act.

5. *Comment.* Many commenters were concerned about the powers and authority of the parent advisory councils. Some commenters wanted the councils to have a "sign off" authority on the local educational agency's application. Other commenters strongly urged that the councils not be given such a "sign off" responsibility.

Response. No change has been made in the regulations. In accordance with Section 141(a)(14)(C), the councils have only an advisory function; they do not have the power to prevent the submission of an application by refusing to "sign off." However, since Section 141(a)(14)(C) of the Act requires the local educational agency to give the parent councils in its district "responsibility for advising it in the planning for, and the implementation and evaluation of * * * programs and projects," the local educational agency must insure that it has the advice of its councils on the application and on major decisions affecting the operation of such programs and projects.

6. *Comment.* Six commenters were concerned about the length of time for which the local educational agency is responsible for furnishing prior applications and evaluations of Title I projects. The commenters felt that the local educational agency should not be required to furnish all past applications and evaluations, some of which are ten years old.

Response. A reference to the availability of information requirements in § 116.45 has been added to subparagraph (g)(2) to indicate that such information has to be kept available for only 5 years after the completion of the relevant Title I project or until an impending audit has been completed and resolved.

7. *Comment.* Another commenter felt that the requirement to provide the advisory councils with relevant information and documents was already accomplished in proposed § 116.35, "Public information," and should not be repeated in § 116a.25.

Response. Paragraph (g) containing the requirements for the provision of information to councils has been streamlined and replaced by more general standards and a cross-reference to the "Public information" paragraph in § 116.45. However, because of the unique and important role of councils, the council members must be automatically furnished with certain specified documents, such as copies of the complete Title I statute and regulations, and the council must be furnished with the local educational agency's current application.

8. *Comment.* Several commenters wanted each council member to receive relevant information and documents rather than each advisory council, and recommended that paragraph (g) be revised accordingly.

Response. Subparagraph (g)(1) has been revised to indicate that several important documents must be provided to each council member. In order to assure effective participation by all the council members, each member will receive a copy of Title I of the Act, and the Federal and State regulations and guidelines. Copies of the other appropriate materials, such as the project application and periodic reports, which are issued frequently and tend to be lengthy, are to be furnished to each advisory council rather than each member.

9. *Comment.* Several commenters urged that parents employed by the local educational agency not be counted as part of the majority that are required to be parents of children to be served and that the regulations be amended accordingly.

Response. No change was made in the regulations. At this time, it is felt that this type of provision is best left to local discretion.

10. *Comment.* Four commenters were concerned about releasing the names of Title I parents for the purpose of having such parents considered for selection to parent councils. The commenters felt strongly that the confidentiality of the parents' names had to be maintained until and unless an individual parent consented to be identified.

Response. While this safeguard was already specified in the proposed paragraph (c), a new sentence was added in paragraph (c) to emphasize the principle of confidentiality with respect to parents eligible to serve on advisory councils.

11. *Comment.* Two commenters sought clarification as to the exact date when the local educational agencies

would be required to establish school advisory councils.

Response. No change was made in the regulations. Pub. L. 93–380, which requires school advisory councils, was enacted on August 21, 1974, and the requirement to establish school advisory councils was effective sixty days after the enactment (see Section 2(c) of Pub. L. 93–380). The local educational agencies were required, therefore, to form school advisory councils as soon as possible after the effective date.

12. *Comment.* Three commenters wanted the local educational agency to provide an assurance in its application that it was in compliance with the provisions of paragraphs (a) and (g) establishing parent councils rather than demonstrate in the application that it was in compliance with such provisions.

Response. No change was made in the regulations. By statute, the State educational agency is required to make a determination that the local educational agency has established parent councils in accordance with Section 141(a)(14) of the Act and, therefore, would need a brief description of the formation and operation of those councils.

13. *Comment.* Several commenters indicated some difficulty in interpreting the language used in subparagraph (a)(1) which referred to the majority membership of the parents of children "who participated in the program in the preceding year or will participate in the current year's program."

Response. This language has been clarified to indicate that parents of children who are participating in Title I during the current project year or who will be participating in the proposed program for the following project year (if determinable) must constitute the majority membership of the advisory council.

14. *Comment.* Several commenters suggested that paragraph (d) contain more specific methods of selecting parent advisory council members. These suggestions included: the selection of nonparent members by the parent members, the selection of all members by parents and staff in eligible schools, the required selection of district advisory council members from the membership of the school advisory councils, and the selection of parent advisory council members by an existing parent organization.

Response. No change has been made in the regulations. The proposed regulations were written both to conform with the specific requirements of the statute and to provide maximum flexibility for the State and local educational agencies to encourage parent involvement. The method of selection, therefore, is left to the discretion of the local educational agency (in consultation with the district advisory council) as to what it deems to be the most effective method of encouraging parent involvement, as long as such methods do not preclude or discourage participation by all parents in a project area in the selection of council members.

15. *Comment.* One commenter requested funds in addition to the existing Title I allocation to local educational agencies, to help maintain school parent advisory councils.

Response. No change was made in the regulations. The Commissioner does not have the authority to authorize a further appropriation without Congressional action.

16. *Comment.* One commenter wanted the regulations to require the State educational agency to provide staff to help the planning and coordination.

Response. No changes have been made in the regulations. Under Section 143(b) of the Act, the State educational agency is responsible for ensuring proper and efficient administration of the Act and under, such authority, may provide any technical assistance it deems necessary to local educational agencies to ensure the proper functioning of parent advisory councils. Moreover, local educational agencies under Section 141(a)(14) are considered to have the prime responsibility for the training of their advisory councils.

17. *Comment.* One commenter was concerned that compliance with proposed paragraph (d) to inform the general public of the time, place, and method of selecting council members would require enormous amounts of time and paper work.

Response. No change has been made in the regulations. Flexibility is given in determining the appropriate form of notice. It should be noted that notice to the public through conventional means of communication, such as local newspaper and media announcements would generally be satisfactory.

18. *Comment.* One commenter, in referring to proposed subparagraph (g)(6) which required a local educational agency to have adequate procedures for responding to parent complaints and suggestions, urged that all complaints be in written form and that no responses to complaints were needed. In addition, the commenter felt this requirement was an attempt by the Federal government to dictate local administrative practices.

Response. Subparagraph (g)(6), as proposed, has been deleted and relevant complaint procedures are now included in § 116.6. In order for the State educational agencies and the Commissioner to carry out their mutual administrative responsibilities, certain minimum standards of dealing with complaints are maintained.

§ 116a.26 *Comparability of services*—1. *Comment.* Several commenters stated that the date, October 1, which the Commissioner designated for determinations of comparability in Fiscal Years 1974 and 1975 was either too early for enrollments to be stabilized, or it failed to coincide with dates or periods established by the State for reports which include data related to comparability.

Response. The revised regulations in paragraph (c) enable each State educational agency to establish the date or reporting period for comparability purposes, not later than November 1, that best coincides with the date or period for State reports. To that extent, the State educational agency may take into account the stability of enrollments in setting the reporting date.

2. *Comment.* Several commenters urged that the averages for the comparability indicators from all of the Title I schools rather than each Title I school in a particular grade span be compared to the corresponding averages for all non-Title I schools.

Response. No change has been made in the regulations. In light of the legislative history (see particularly the Congressional debates in Cong. Rec. S. 4361, H. 2690 and H. 2692, daily eds. March 24, 1970, and April 7, 1970), this interpretation of the statute (Section 141(a)(3)(C)) was rejected. Such an interpretation would permit Title I services to be provided at schools that were grossly underfunded, provided there were compensating expenditures from State and local funds in other project area schools.

3. *Comment.* Several commenters indicated that the proposed rules did not recognize sufficiently the effect of school size on staff ratios and expenditures per pupil.

Response. Subparagraph (i)(4) has been added to allow a local educational agency to divide a grade span group into two size groups if a school in the grade span group has an enrollment that is at least two times that of another such school (The latter school must have an enrollment of over 100 students).

4. *Comment.* With respect to schools with enrollments of 100 or less, some commenters pointed out that schools with enrollments of five or ten children should not be compared with schools with enrollments of 90–100 children.

Response. Paragraph (k) has been revised to allow a local educational agency to file a statement of policies assuring comparability of the allocation of resources to schools having under 100 enrollment, rather than meeting comparability through a report as set forth in paragraph (b).

5. *Comment.* A number of commenters asked that the permissible variance of five percent from the comparability ratios (children per staff member and expenditures for instructional salaries less payments for length of service) based on the average of non-Title I schools be increased. Some of those commenters indicated that they are making such requests because of wide ranges in the sizes of the schools in their communities.

Response. While no changes were made in the permissible variance, the new division of schools by size detailed in the response to comment 3 of this section should, to some degree, serve to meet the objectives of those who wanted a change in the variance. It should be noted that the five percent variance is consistent with the decision in the relevant case of *Hobson* v *Hansen* 269 F. Supp. 401 (D.C.D.C. 1967), *aff'd. sub. nom., Smuck* v *Hansen* 132 U.S. App. D.C., 372, 408 F. 2d. 175 (1969).

6. *Comment.* The provisions for reports on expenditure for materials and supplies contained in the proposed subparagraph (b)(7) were characterized by some commenters as "punitive," because

such reports have been required only of those local educational agencies which initially fail to demonstrate comparability. They also related their experience that such data are difficult to collect and maintain and, therefore, recommended that this requirement be deleted.

Response. This subparagraph has been deleted. However, subparagraph (h)(3) has been revised to include a statement of policy ensuring that the materials and supplies are distributed in a comparable manner. Because of the legislative history (see Sen. Rept. No. 91-634 pp. 14-15 (1970)), information concerning materials and supplies is a relevant part of the comparability requirements.

7. *Comment.* A few commenters recommended that a single measure of the comparability of services be adopted. Some of the commenters suggested the measure be the ratio of children enrolled to instructional staff. Still others suggested expenditures (for instructional salaries) per pupil. In both cases the commenters reasoned that a demonstration of an equitable preliminary allocation of resources, either in numbers of instructional staff or expenditures per child for instructional salaries, should be sufficient to determine that comparable services are being provided for project area schools.

Response. The regulation in this regard has been retained. The multiple standards are consistent with the legislative history (see Sen. Rept. No. 91-634, pp. 14-15 (1970)). Additionally, while a plan for allocating staff or funds among the schools of a local educational agency is important and perhaps a necessary management device, it is the actual delivery of those resources to individual schools that must form the basis for determinations of comparability.

8. *Comment.* One commenter suggested that only teachers, and not principals, librarians, and special instructional personnel be counted for the purposes of comparability since the last three categories of staff are frequently assigned on a school basis rather than on the basis of the number of children, a condition that frequently leads to adverse comparability determinations when project area schools are compared with nonproject area schools with considerably smaller enrollments.

Response. The size of school problem noted by this commenter has been taken care of by the addition of subparagraph (i)(3), as noted in response to comment 3 of this section. However, the categories of principals, librarians, and special instructional personnel have been maintained as relevant for comparability purposes since the Congressional debates on the subject indicate that Congress wanted information on a broader category of staff than merely classroom teachers (see the debates as cited in the response to comment 2 above). It is also felt that principals, librarians, and special instructional personnel do affect the quality of instructional services offered to students in Title I and non-Title I schools, and therefore, are relevant to comparability determinations.

9. *Comment.* Another commenter suggested that, for comparability purposes, certain staff members, particularly teacher aides, be counted at a fraction of their actual number. This commenter also expressed the need to permit different combinations of professional and paraprofessional staff without jeopardizing the comparability of some Title I schools.

Response. No change was made in the regulations. While the concern for allowing flexibility of staffing patterns for various schools is understandable, there is no recognized standard for converting a certain number of aides to an equivalent number of teachers. To some degree, this concern is met by the fact that levels of preparation are reflected in the expenditure per pupil (salaries less longevity).

10. *Comment.* A number of commenters questioned the need for the inclusion of data on expenditures for instructional staff based on length of service (longevity) as required by proposed subparagraph (b)(3), and on children, instructional staff, and expenditures for such staff as required by proposed subparagraph (b)(8) with respect to State and locally funded special or compensatory programs. Their comments were based on the fact that such data are not actually required for determinations of comparability.

Response. The proposed subparagraph (b)(3) has been deleted. Proposed subparagraph (b)(8) has been kept so that it may be used in assessing the effect of such exclusions on determinations of comparability.

11. *Comment.* A group of commenters from one State requested that recognition be given to the provisions of their State's financial aid plan which requires a high degree of equalization with respect to funding not only on an interdistrict basis but also on a school by school basis. The same State's formula for determining equalization also includes the use of various weighting factors for different types of children and for children at different grade levels.

Response. In light of these comments, changes were made in subparagraph (b)(1), to permit the weighting of actual enrollments in accordance with the weightings indicated by State or local school finance plans provided such weightings are reasonable and uniformly applied.

12. *Comment.* A few commenters asked whether the provisions concerning revised comparability reports required that all data on such a report be as of the same date.

Response. Additional language has been supplied in subparagraph (f)(1) to make it clear that revised comparability reports must contain data as of one date, the date that the reallocation of resources actually takes effect.

13. *Comment.* One commenter recommended that a resolution of the board of the local educational agency be accepted as the evidence of the reallocation of personnel that is required when submitting a revised report and that an appropriate change be made to the regulations.

Response. No such change was made in the regulations. Comparability is measured in terms of the status of services at points in time. Comparability based on intention is an incomplete measure of actual services at any one point in time; a resolution showing intent to provide comparable services is not a measure of the actual services.

14. *Comment.* A few commenters objected to the requirement that State and locally funded services for handicapped children or for bilingual programs for children with limited English-speaking ability must be provided in project areas on a basis comparable to that for nonproject areas if expenditures for such services are excluded from a determination of average per pupil expenditure. They suggested that this requirement in proposed paragraph (j) be deleted.

Response. No change has been made in the regulations. This "comparability type" requirement appears in the definition of "excess costs" in the statute (Section 403(17) of Pub. L. 81-874) and is applied to the comparability requirements of Section 141(a)(3)(C) on the basis of the legislative history (See House Rep. No. 93-805, pp. 17-18 (1974); and Sen. Rept. No. 93-1026, p. 147 (1974)).

15. *Comment.* Another commenter on the provisions for the exclusion of State and local funds for handicapped children requested that, in the case of part-time classes, provision be made for adjustments in the number of children reported as enrolled so as to reflect the fact that such handicapped children were also being served part-time in regular classes.

Response. The provisions of subparagraph (j)(2) have been adjusted accordingly to allow the exclusion requested.

16. *Comment.* One commenter objected to the provision in subparagraph (f)(3) regarding the case of a finding of noncomparability after December 1 that Title I funding for the local educational agency would be suspended as of the date of the finding. The commenter recommended that the local educational agency be given thirty days to make the necessary changes and file a revised comparability report.

Response. The regulation has been modified, taking into account this concern. No time limit has been set. However, the regulation now states that if "prompt" action is taken to correct the non-compliance, there will be no suspension of the approval. Whether a local educational agency acted "promptly" to correct its non-compliance status would have to be determined on a case-by-case basis depending on such factors as the amount of corrective action needed, the size of the school district, and the compliance history of that district for that year.

17. *Comment.* One commenter asked that consideration be given to counting children in less than full-day kindergarten programs on a full-time equivalency basis.

Response. Recognizing the special nature of kindergarten programs, appropriate language has been provided in subparagraph (b)(1) to allow part-time

kindergarten children to be counted on a full-time equivalency basis.

OTHER CHANGES IN PART 116a

1. Several typographical and technical corrections were made. Additionally, various changes were included as a means of clarification.

2. As indicated in the summary of comments on § 116.2, the definition of "educationally deprived children" is now included in § 116a.2. Conforming changes have been made to make it suitable to the local educational agency program.

3. In § 116a.5(b), the final sentence has been modified to indicate that, consistent with Section 144 of the Act, the amount of a Title I allocation attributable to children in a local institution is not available for reallocation. Another sentence was added concerning the length of the stay of children in institutions for allocation purposes.

4. In § 116a.11(a), a new subparagraph (4) was added for the purpose of defining "maximum grant" as used in this subsection for the purpose of clarity.

5. Section 116a.13 of the notice of proposed rulemaking has been deleted, since Section 101(a)(4)(B) of Pub. L. 93-380 repealed Part C of Title I as of July 1, 1975. Accordingly, proposed § 116a.14 has been renumbered § 116a.13.

6. A phrase has been added in § 116a.20(d) to emphasize that the use of the "no-wide variance" provision by a local educational agency, which meets the appropriate standards, is optional.

7. In § 116a.20(f), the number of children eligible to receive benefits under the National School Lunch Act has been added as a possible indicator of the number of children from low-income families for specified purposes.

8. As indicated in the comments on § 116.40, the provision concerning services "ordinarily provided" with State and local funds is now found in § 116a.22(b)(10), and modified to address the use of Title I funds when State and local funds are providing services that are similar to those provided under Title I.

9. Provisions in the proposed § 116a.23(f) which pertained to the use of equipment on private school premises have been moved to § 116.36.

10. § 116a.23-1(e) has been shortened and now incorporates by reference statutory provisions in Section 141A(b)(4) of the Act for review by the Court of Appeals of the Commissioner's actions under this section of the regulations and Section 141A of the Act.

11. In § 116a.25(a), subparagraphs (5) and (6) have added provisions to insure that operating procedures and coordination among parent councils have been provided.

12. Paragraph (c) of § 116a.25 has been modified to indicate that the local educational agency shall consult with the district council in establishing procedures to identify parents eligible for membership.

13. In § 116a.25(d), provisions have been added to indicate, where appropriate, that a local educational agency shall consider the publication of notices for elections in a language other than English; and to indicate that district advisory council members shall reside in the district and school members shall reside in the attendance area of that school.

14. In subparagraph (i)(1) of § 116a.26, a sentence has been added to indicate that schools serving eight or more grades may be considered as a separate grade span group for the purposes of determining comparability.

15. A new final paragraph (o) has been added to § 116a.26 which excludes from the comparability provisions, local educational agencies receiving ninety-five percent or more of their funds from Federal sources. This exclusion parallels § 116.19(e) in the maintenance of effort provisions.

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

(Catalog of Federal Domestic Assistance Program Numbers 13.427, Educationally Deprived Children-Handicapped (Pub. L. 89-313); 13.428, Educationally Deprived Children-Local Educational Agencies; 13.429, Educationally Deprived Children-Migrants; 13.430, Educationally Deprived Children-State Administration; 13.431, Educationally Deprived Children in State Administered Institutions Serving Neglected or Delinquent Children)

Dated: May 26, 1976.

T. H. BELL,
U.S. Commissioner of Education.

Approved: September 16, 1976.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

PART 116—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES AND STATE AGENCIES TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED, HANDICAPPED, MIGRANT, AND NEGLECTED AND DELINQUENT CHILDREN—GENERAL PROVISIONS

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AUTHORITY: Sec. 2, Pub. L. 89-10, 79 Stat. 27, as amended, (20 U.S.C. 241a-241m, 242, 244), unless otherwise noted.

Subpart A—Scope

§ 116.1 Applicability.

(a) *Other Title I regulations.* The regulations in this part are applicable to all programs conducted under Title I of the Elementary and Secondary Education Act of 1965, for which regulations are contained in Parts 116a, 116b, 116c, and 116d of this chapter.

(b) *General provisions regulations for Office of Education programs.* Assistance provided under this part is subject to applicable provisions contained in Parts 100, 100b, and 100c (and relevant appendices) of subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters).

(c) The text of the Title I statute is contained in full in the Appendix to this part.

(20 U.S.C. 241a)

§ 116.2 Definitions.

(a) As used in this part and in Parts 116a, 116b, 116c, and 116d (except as otherwise indicated in those parts)—

"Act" means the Elementary and Secondary Education Act of 1965 (Pub. L. 89-10) as amended. Title II of Pub. L. 874, 81st Congress, which was added by Title I of said Elementary and Secondary Education Act of 1965, is hereinafter in this part referred to as Title I.

(20 U.S.C. 241a)

"Applicant agency" means a local educational agency that applies for a grant under Part 116a, a State agency that applies for a grant under Part 116b, or Part

116c, and a State educational agency that applies for a grant under Part 116d.

(20 U.S.C. 244(6)(B))

"Child or children" except where otherwise specified means a person or persons not above 21 years of age who, under State law, are entitled to free public education which is provided as elementary and secondary education, not above grade 12. The term also includes a person or persons who are of preschool age.

(20 U.S.C. 241c-2, 241e(a)(1).)

(b) As used in this part, and in Parts 116a, 116b, 116c, and 116d (except as otherwise indicated in those parts) the following terms have the meaning given to them in section 403 of Pub. L. 81-874 (20 U.S.C. 244) which is set forth in the appendix to this part:

Average daily attendance
Average per pupil expenditure
Commissioner
Construction
County
Current expenditures
Elementary school
Equipment
Excess costs
Federal property
Free public education
Local educational agency
Parent
School facilities
Secondary school
State
State educational agency

(20 U.S.C. 241a, 244.)

Subpart B—Duties and Functions of State Educational Agencies

§ 116.3 Participation of States.

(a) *Required submissions.* Any State desiring to participate under Title I shall submit through its State educational agency to the Commissioner a general application and an annual program plan as set forth in section 434(b)(1)(A) and 434(b)(1)(B) of the General Education Provisions Act and the regulations in Part 100b of this chapter. However, with respect to the program described in Part 116d relating to migratory children of migratory agricultural workers or fishermen, subparagraph (1) does not apply. The annual program plan shall include:

(1) The assurances required by Section 142(a) (1) and (3) of Title I;

(2) An assurance that the State educational agency will comply with Title I and the regulations in this part and the applicable provisions of Parts 116a, 116b, 116c, and 116d of this chapter;

(3) A statement describing the purposes for which Federal funds will be expended under Title I during the fiscal year for which the annual program plan is submitted; and

(4) A certificate by the appropriate State legal officer to the effect that the agency submitting the plan has the authority under State law to perform the duties and functions of a State educational agency under Title I and the applicable regulations, including those arising from the assurances given.

(b) *Approval by the Commissioner—(1) Determinations of the Commissioner.* The Commissioner will approve each annual program plan to participate in the grant program under Title I, submitted by a State through its State educational agency, if the Commissioner determines that the plan meets the requirements of the applicable provisions of Title I and the regulations in this part and Parts 116a, 116b, 116c, and 116d. The Commissioner will not finally disapprove (in whole or in part) such State program plan with regard to Title I except after reasonable notice and opportunity for a hearing.

(20 U.S.C. 241f(b), 1232c.)

§ 116.4 State administration and technical assistance.

(a) *General.* The State educational agency for a State for which the Commissioner has approved a plan, as specified in § 116.3(b), shall be responsible for the proper and efficient performance of the duties of such agency under Title I including compliance with its assurances to the Commissioner and the provision of technical assistance to local and State agencies with respect to the measurements and evaluations such agencies are required to submit pursuant to such Title.

(b) *Amount available for administration.* Each State educational agency is entitled to receive for each fiscal year an amount equal to the amount expended by it for performance of its duties under this section but not to exceed the amounts set forth in section 143(b) of Title I.

(20 U.S.C. 241g, 1232c)

§ 116.5 Approval by State educational agency of applications from applicant agencies.

(a) *Review by State educational agency.* The State educational agency shall review all applications by applicant agencies except for an applicant agency under Part 116d. The State educational agency shall not approve an application (1) for an amount which together with amounts of other approved applications by that agency, exceeds the amount available for grants to that agency determined in accordance with Title I or (2) unless it has determined that the application meets all of the applicable requirements of Title I and the regulations.

(b) *Effective date of approved application.* Projects approved pursuant to paragraph (a) of this section shall be considered to be in effect as of the date on which the application was submitted in substantially approvable form. In no event shall such date be earlier than the first day on which the funds being applied for become available for obligation, or the effective date of the State educational agency's annual program plan.

(c) *Notice and opportunity for hearing.* The State educational agency shall not finally disapprove any application in whole or in part without first affording the applicant agency reasonable notice and opportunity for a hearing with respect to such action in accordance with the requirements of section 425 of the General Education Provisions Act. Such notice shall include the reasons for the proposed disapproval. A hearing shall be held by the State agency 30 days after it receives a request from the applicant agency. If the State educational agency decides not to rescind its final action, it shall give notice of the decision to the applicant agency in writing, stating its reasons and indicating the right to appeal to the Commissioner within twenty days of the receipt of the notice.

(d) *Appeal.* An applicant agency aggrieved by the final action of a State educational agency shall be given the opportunity for an appeal to the Commissioner as set forth in section 425 of the General Education Provisions Act.

(e) *Availability to the public.* Each application of a local educational agency or a State agency for a grant under Title I; the related documents referred to in Parts 116a, 116b, 116c, and 116d; and the evaluation and other reports referred to in such parts, shall be made available to the public by the State educational agency in the manner prescribed by § 116.35.

(20 U.S.C. 241e(c), 241f, 1231b-2, 1231d)

§ 116.6 Review and complaint procedures.

The State educational agency shall establish procedures for investigating complaints alleging violations of Title I or the regulations for that Title including:

(a) Procedures to carry out section 425 (a) and (c) of the General Education Provisions Act and § 116.5(c); and

(b) Procedures for resolving the complaints of parents and other individuals and organizations, including:

(1) Specific time limits for investigation and resolution of complaints, not normally to exceed 60 days;

(2) An opportunity for the complainant to present evidence to the State educational agency; and

(3) Dissemination of information concerning procedures under this paragraph to interested parties, including parent advisory councils.

(20 U.S.C. 241f(a)(3), 1231b-2, 1231d)

§ 116.7 Reports by State educational agencies.

(a) *Annual evaluation reports.* Following the close of each fiscal year and no later than November 15 of the next fiscal year, the State educational agency shall submit to the Commissioner reports evaluating the effectiveness of programs and projects under Title I in meeting the special educational needs of participating children during the preceding school year and the following summer period. In addition to the State annual evaluation reports required by this paragraph, each State educational agency shall submit evaluation reports for two applicant agencies applying under Part 116a, including one for such an agency whose allocation for funds under Title I of the Act for the current fiscal year is among the five highest in the State.

(b) *Reports concerning complaints.* The State educational agency shall re-

port to the Commission on the disposition of all complaints filed and reviewed pursuant to the procedures developed under § 116.6. Reports shall be made as follows:

(1) *Interim reports.* In any case, where the complaint has not been fully investigated and resolved by the expiration of a 60-day period, the State educational agency shall report at that time, the substance of the complaint to the Commissioner along with an explanation of its status;

(2) *Final reports.* In the case of a complaint which has been fully investigated, the State educational agency shall submit a report to the Commissioner which includes at least:

(i) The substance of any allegation and the name of the individual citizen, private organization or local educational agency making the allegation;

(ii) A summary of the results of the investigation and any hearings held concerning the allegation; and

(iii) A statement of the disposition of the complaint by the State educational agency, giving the reasons for such disposition.

(3) *Copies to be sent.* The State educational agency, upon sending its report to the Commissioner, shall send copies thereof to the appropriate applicant agency and the complainant.

(20 U.S.C. 241f(a)(3)(B), 1231(a), 1232c)

Subpart C—Payments

§ 116.17 Payment procedures.

The Commissioner will make all payments of Title I funds in accordance with the requirements of Title I, the regulations of this part and applicable provisions of Parts 116a, 116b, 116c, and 116d, the requirements of Section 435 of the General Education Provisions Act and the provisions set out in Subpart E of Part 100b of this chapter.

(20 U.S.C. 1232d)

§ 116.18 Title I funds not to be considered in determining State aid.

No payments by the Commissioner under Title I will be made to a State for any fiscal year in which the State has taken such payments into consideration in determining the eligibility of an applicant agency for State aid, or in determining the amount of that aid for the free public education of children in such a way as to penalize the applicant agency with respect to the availability of State funds.

(20 U.S.C. 241g(c)(1))

§ 116.19 Maintenance of effort.

(a) *General requirement.* No payments under Title I for any fiscal year may be made by the State educational agency to an applicant agency unless the State educational agency finds that the combined fiscal effort of that applicant agency and the State with respect to the provision of free public education by that applicant agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

(b) *Measurement of combined fiscal effort.* For purposes of this section, combined fiscal effort by an applicant agency shall be measured by the amount of the current expenditures per pupil by the applicant agency other than expenditures from funds derived from Federal sources for which the applicant agency is required to account to the Federal Government directly or through the State educational agency; such as funds under Titles I, II, III and IV of the Act, Titles III and V of the National Defense Education Act of 1958, the Johnson-O'Malley Act, and the Economic Opportunity Act of 1964. A combined fiscal effort in the preceding fiscal year shall not be deemed to be a reduction from that in the second preceding fiscal year unless the per pupil expenditure in the preceding fiscal year is less than that in the second preceding fiscal year by more than 5 percent. Any such reduction in the combined fiscal effort by an applicant agency for any fiscal year by more than 5 percent will disqualify the applicant agency unless the agency is able to demonstrate to the satisfaction of the State educational agency that such a reduction was occasioned by an unusual event, such as the removal of a large segment of property from the tax rolls, that could not have been fully anticipated or reasonably compensated for by the applicant agency and a diminished fiscal effort on the part of that agency is not otherwise indicated.

(c) *An applicant agency which receives substantial Federal funds.* An applicant agency receiving at least 95 percent of its funds for education from Federal sources will not be required to meet the provisions of this section.

(20 U.S.C. 241g(c)(2))

§ 116.20 Withholding by the Commissioner.

(a) *Nonconformity.* Whenever the Commisioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in regard to Title I of the Act in the annual program plan of that State, he will notify the agency that further payments will not be made to the State under Title I of the Act (or, in his discretion, that the State educational agency will not make further payments under Title I of the Act to specified applicant agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until the Commissioner is so satisfied, further payments under Title I of the Act will not be made to that State or payments by the State educational agency will be limited to payments to applicant agencies not affected by the failure, as the case may be.

(b) *Suspension.* The remedy of suspension pending termination as provided in section 434(c) of the General Education Provisions Act may be invoked in connection with a termination under this section.

(c) *Attempts to resolve differences.* Prior to initiating a hearing under this section, the Commissioner will attempt to resolve promptly any apparent differences with the State educational agency regarding the interpretation or application of the provisions of Title I of the Act and the pertinent regulations.

(20 U.S.C. 241(j), 1232c(c), (d))

Subpart D—Provisions Relating to Use of Funds for Particular Purposes

§ 116.30 Planning grants.

An applicant agency may apply for a grant in an amount not exceeding one percent of the maximum grant it is eligible to receive or $2,000, whichever is greater, for planning during the current fiscal year, provided that (a) such planning was, or will be, directly related to programs or projects to be carried out under Title I of the Act and has resulted, or is reasonably likely to result, in a program which will be carried out under that Title, and (b) such planning funds are necessary for that purpose because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary for adequate planning for programs or projects to be carried out under Title I.

(20 U.S.C. 241(e)(a)(1) and (5).)

§ 116.31 Cooperative projects.

Two or more applicant agencies eligible for grants under Title I of the Act may apply for a grant for a single project (including a planning project) to be carried out jointly in accordance with arrangements between or among such educational agencies.

(20 U.S.C. 241e(a)(1))

§ 116.32 Construction and equipment.

(a) *General.* An application for a project grant under Title I may include the acquisition of equipment or the construction or remodeling of school facilities only if it is demonstrated as being essential to the success of a program or project under Title I. Each application shall describe the need for such equipment or construction, in addition to other equipment or facilities previously acquired or constructed by the applicant with funds under Title I and for which the applicant is accountable, in connection with the proposed project. The applicant shall further describe how all such equipment or facilities will be used. If the construction of school facilities is so demonstrated as being essential for a program or project, the application must nevertheless comply with other requirements of Title I and the regulations in this chapter, such as the requirements in Subpart K, Part 100b of this chapter in regard to labor standards and overall State construction planning and, in relation to the overall program, the limitations in § 116a.23(f) in regard to participation by children enrolled in private schools.

(b) *Prohibition against maintaining isolation.* The State educational agency shall not approve a project involving construction of school facilities if it finds that such construction would tend to

maintain the racial, cultural, or linguistic isolation of children.

(20 U.S.C. 241e(a) (1) and (4), 1232b)

§ 116.33 Reimbursement for expenses incurred by parent council members and volunteers.

Members of parent councils and volunteers not receiving regular compensation under Title I may be reimbursed from Title I funds for personal expenses directly attributable to the performance of their duties and functions as set forth in approved applications.

(20 U.S.C. 241e(a)(14), 1231d)

§ 116.34 Education aides.

An application for a project which involves the use of education aides shall include evidence that the applicant agency has provided, or will provide, a coordinated program of training in which the aides participate together with the professional staff whom they will assist.

(20 U.S.C. 241e(a)(12))

§ 116.35 Staffing for programs and projects.

Payment of Title I funds may be authorized for the employment of the personnel required to provide specific services set forth in approved Title I applications. Such applications shall state the number and types of personnel to be employed.

(20 U.S.C. 241e(a)(1))

§ 116.36 Training.

Payment of Title I funds may be authorized for pre-service and in-service training of persons identified in this section.

(a) *Scope of training.* Such training must be directly related to: (1) The services which such persons will perform during the same project year in connection with an approved program or project under Title I; and

(2) Their needs for the development of competencies required if the program or project is to be effective in meeting the special educational needs of the identified children to be served in the program or project. Such training must be coordinated with any other training being provided in connection with the program or project.

(b) *Eligible persons.* Such training may be provided for:

(1) Title I staff members, Parent Council members, and volunteers who are engaged to perform specific services related to approved programs or projects;

(2) Non-Title I staff specialists who will be dealing solely with children to be served by the Title I projects, and regular classroom teachers of such children; and

(3) The principal of a school for which a Title I program or project has been approved.

(20 U.S.C. 241e(a) (1), (12), and (14), 1231d; House Report No. 93-805, p. 17 (1974), Sen. Report No. 93-1026, p. 144 (1974).)

§§ 116.37–116.39 [Reserved]

Subpart E—Requirements for Applicant Agencies

§ 116.40 Title I funds supplementary to State and local funds.

(a) *General.* (1) Each application by an applicant agency for a grant under Title I shall contain an assurance that the use of the grant funds will not result in a decrease in the use (for educationally deprived children) of State or local funds which, in the absence of funds under Title I, would be made available for the education of such children, and that such children will not otherwise be penalized in the application of State and local funds because of such a use of funds under Title I.

(2) No project under Title I shall be approved unless Federal funds made available for that project (i) will be used to supplement, and to the extent practical, increase the level of State and local funds that would, in the absence of such Federal funds, be made available for the education of pupils participating in that project; (ii) will not be used to supplant State and local funds available for the education of such pupils; and (iii) will be used solely to pay the excess costs of programs and projects assisted under Title I.

(b) *Services which applicant is required to provide.* Title I funds shall not be used to provide services which the applicant agency is required to provide by State law or pursuant to a formal determination under Title VI of the Civil Rights Act, Title IX of the Education Amendments of 1972 (Pub. L. 92-318), or section 504 of the Vocational Rehabilitation Act of 1973, as amended, or pursuant to a final order of a court.

(20 U.S.C. 241e(a) (1) and (3); Lau v. Nichols 414 U.S. 563 (1974))

§ 116.41 Relation of Title I projects to other programs.

(a) *Coordination in development of application.* Each application by an applicant agency for a grant under Title I shall demonstrate that, in the development of such application, the applicant has taken into consideration benefits which are or may be available through other public and private agencies, and which would contribute toward meeting the special educational needs of educationally deprived children. Such application shall also demonstrate that the applicant has considered suggestions and offers of assistance which have been timely made by such agencies and which may aid in carrying out or making more effective the program or project for which application is made. Applicants shall, upon request, make their applications available to interested public and private agencies far enough in advance of final formulation to enable such agencies to make meaningful suggestions and offers.

(b) *Simultaneous use of funds.* The simultaneous use of funds under Title I and funds under other Federal programs to support discrete portions of a particular project is permissible if (1) the requirements of each program, considered separately, are satisfied with respect to the portion of the project which is being financed from such program; (2) there is no commingling of funds derived from one appropriation with funds derived from another appropriation; and (3) there is no transfer of funds derived from an appropriation to the use of an activity not authorized by the law authorizing such appropriation.

(c) *Use of State and local funds.* A program or project set forth in a project application that meets all the requirements of Title I shall be funded from State and local funds to the extent that such funds are specifically designated and available at the time of application for particular services included in the project. Under the conditions set forth in this section, Title I funds may be used to provide those services not provided by funds from other sources.

(20 U.S.C. 241e(a) (1) and (3), and 1232c (b)(1))

§ 116.42 Administrative control of Title I property.

(a) *Control and title in public agency.* Control over the use of funds provided under Title I, and title to and administrative control over property acquired with these funds, shall be in a public agency, which will exercise such control consistent with §§ 100b.215 and 100b.216 of the general provisions regulations (45 CFR 100b.215, 100b.216). These funds and property shall be used for the purposes provided in Title I but such use shall not inure to the benefit of any private school. The incidental use of such property for other purposes is permitted only for related educational purposes on public premises and only so long as such use does not interfere with the carrying out of a Title I project.

(b) *Equipment.* Equipment acquired with Title I funds may in certain cases be placed on private school premises. Title to and administrative control over such equipment must be retained and exercised by a public agency. In exercising that administrative control, the public agency shall keep records of, and account for, the equipment and shall also assure itself that the equipment is being used solely for the purposes of the project, and remove the equipment from the private school premises when necessary to avoid its being used for other purposes or when it is no longer needed for the purposes of the project.

(c) *Assurance.* An application for a grant under Title I must contain satisfactory assurance that Title I funds and property derived therefrom, will at all times be under the control of, and be administered by, a public agency in accordance with the provisions of Title I and the regulations in this part.

(20 U.S.C. 241e(a)(3)(A) and 1232c(a))

§ 116.43 Measurement of educational achievement and evaluation of programs.

(a) *Annual evaluation procedures.* Each application by an applicant agency for a grant under Title I shall describe

the procedures and techniques to be used in making at least annually an evaluation of the effectiveness of the program in meeting the special educational needs of participating children including appropriate performance criteria and the instruments and methods to be used to measure objectively changes in the educational achievement of such children.

(b) *Standards.* The measurement of educational achievement of participating children shall be carried out with regard to objective standards or norms. The type of measurement used shall give particular regard to the requirement under § 116.7 of Subpart B that the State educational agency report to the Commissioner on the effectiveness of the programs in that State in improving the educational achievement of participating children.

(c) *Children in private schools.* The evaluation of programs and projects shall, consistent with the nature and extent of participation of children enrolled in private schools, be extended to such participation.

(20 U.S.C. 241c–1, c–2, c–3, 241e(a) (2) and (6), 241e–1)

§ 116.44 Dissemination and utilization of results of educational research and demonstrations.

Each application by an applicant for a grant under Title I shall describe the methods to be used by the applicant for reviewing, selecting, and disseminating to teachers and educational administrators significant information on the latest developments and most recent experiments in education so that such information will be available for use in program planning and operation. These methods may include, among other things, in-service education, professional workshops and seminars, consultations and visitations, and reports on the organization, operation and outcome of projects under Title I.

(20 U.S.C. 241c–1, c-2, c-3, 241e(a) (10))

§ 116.45 Public information.

Each application by an applicant agency for a grant under Title I shall include specific plans for disseminating information concerning the provisions of Title I, and the applicant's past and present Title I programs—including evaluations of such programs—to parents and to the general public. The applicant agency shall make available to them, upon request, those applications, evaluations of the applicant's past Title I projects, all reports required by § 116.46 to be submitted to the State educational agency, comparability reports and such other documents as may be reasonably necessary to meet the needs of such parents or other members of the public for information related to the comprehensive planning, implementation, and evaluation of the Title I program, but not including information relating to the performance of identified children and teachers. Such information and documentation shall be available until the expiration of five years after the completion of a Title I project, or until any impending audit by the Department of Health, Education, and Welfare or the General Accounting Office (consistent with Section 434(a) of the General Education Provisions Act) has been completed and the questions arising out of it have been resolved. Such plans shall include provision for the reproduction, upon request, of such documents free of charge or at reasonable costs (not to exceed the additional costs incurred which are not covered by Title I funds) or provisions whereby persons requesting such copies will be given adequate opportunity to arrange for the reproduction of such documents.

(20 U.S.C. 241e(a) (8), and (14) (D), 1231d)

§ 116.46 Reports by applicant agencies.

Each application by an applicant agency under Title I shall provide assurance that the applicant agency will render to the State educational agency an annual report and such other reports, in such form, and containing such information, including the results of objective measurements of educational achievement and program effectiveness required by § 116.43 and of research and replication studies, as may be reasonably necessary to enable the State educational agency to perform its duties under Title I. In the case of reports relating to performance the information supplied shall have been developed in accordance with specific performance criteria related to program objectives.

(20 U.S.C. 241c–1, 241c–2, 241c–3, 241e(a) (6) and (7), 241f(a) (3))

§ 116.47 Individualized educational plans.

In considering applications under Title I, a State educational agency shall encourage where feasible applicant agencies submitting such applications to provide for the development for each child participating in an approved program or project under such Title I, an individualized written educational plan (maintained and periodically evaluated), agreed upon jointly by the applicant agency, a parent or guardian of the child, and when appropriate, the child. Funds under Title I of the Act may be used for the purpose of developing, maintaining and evaluating such plans.

(20 U.S.C. 241e(b))

§ 116.48 Operational responsibilities.

The approval of an application under Title I does not relieve an applicant agency of the responsibility to carry out its project or projects in accordance with the approved application, Title I, and the applicable regulations.

(20 U.S.C. 241e, 241j, 1232e(c))

TITLE I—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

Elementary and Secondary Education Act of 1965, as amended, including changes made by Pub. L. 93–380, approved August 21, 1974.

DECLARATION OF POLICY

SECTION 101. In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children.

DURATION OF ASSISTANCE

SEC. 102. During the period beginning July 1, 1973, and ending June 30, 1978, the Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for grants made on the basis of entitlements created under this title.

PART A—BASIC GRANTS

SUBPART 1—GRANTS TO LOCAL EDUCATIONAL AGENCIES

SEC. 103. (a) (1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 per centum of the amount appropriated for such year for payments to States under section 143(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection, and payments pursuant to section 124), and there shall be authorized to be appropriated such additional sums as will assure at least the same level of funding under this title as in fiscal year 1973 for Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and to the Secretary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virginia Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the the purposes of this title.

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State shall be eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3)) be determined by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States. In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which

the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under the two preceding sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

(3)(A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

(C) The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

(4) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children counted under subsection (c):

(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c)(1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2) (A), (B) two-thirds of the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2) (B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to section 123 for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

(c)(2)(A) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.

(B) For purposes of this section, the Secretary of Health, Education, and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the second calendar year preceding such month of January) or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.

(C) When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under paragraph (A) of this subsection) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(d)(1) From the amount allotted for payments to the Secretary of the Interior under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 141(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of sections 141(a) and 142(a)(3).

Subpart 2—State Operated Programs

Programs for Handicapped Children

Sec. 121. (a) A State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), shall be eligible to receive a grant under this section for any fiscal year.

(b) Except as provided in sections 124 and 125, the grant which an agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States), multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per

centum of the average per pupil expenditure in the United States.

(c) A State agency shall use the payments made under this section only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of such children, and the State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

(d) In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in subsection (c).

PROGRAMS FOR MIGRATORY CHILDREN

SEC. 122. (a) (1) A State educational agency or a combination of such agencies, upon application, shall be entitled to receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application only upon his determination—

(A) That payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

(B) That in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

(C) That such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1) (B) and (3) through (12) of section 141(a); and

(D) That, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this subsection.

(b) Except as provided in sections 124 and 125, the total grants which shall be made available for use in any State (other than Puerto Rico) for this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (1) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (2) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary, to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. The total grant which shall be made available for use in Puerto Rico shall be arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States. The Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN

SEC. 123. (a) A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this section for any fiscal year (but only if grants received under this section are used only for children in such institutions).

(b) Except as provided in sections 124 and 125, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

(c) A State agency shall use payments under this section only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

RESERVATION OF FUNDS FOR TERRITORIES

SEC. 124. There is authorized to be appropriated for each fiscal year for purposes of each of sections 121, 122, and 123, an amount equal to not more than 1 per centum of the amount appropriated for such year for such sections for payments to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands under each such section. The amounts appropriated for each such section shall be allotted among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title.

MINIMUM PAYMENTS FOR STATE OPERATED PROGRAMS

SEC. 125. Except as provided in section 843 of the Education Amendments of 1974, no State agency shall receive in any fiscal year prior to July 1, 1978, pursuant to sections 121, 122, or 123 an amount which is less than 100 per centum of the amount which that State agency received in the prior fiscal year pursuant to such sections 121, 122, or 123, respectively.

PART B—SPECIAL INCENTIVE GRANTS

MAXIMUM ENTITLEMENT

SEC. 126. (a) In the case of any fiscal year ending after June 30, 1969, each State shall be entitled to a special incentive grant if such State has an effort index for the second preceding fiscal year that exceeds the national effort index for such year.

(b) The maximum amount of a special incentive grant for which a State is eligible for any fiscal year shall be determined by multiplying the amount of $1 for each 0.01 per centum by which the effort index of that State for the second preceding fiscal year exceeds the national effort index for such year times the aggregate number of children

counted for the purposes of entitled local educational agencies within such State to basic grants in accordance with clauses (2), (5), (6), and (7) of section 103(a), except that no State shall be eligible to receive a special incentive grant under this part in an amount in excess of 15 per centum of the total amount available for grants under this part.

APPLICATION; USE OF FUNDS

SEC. 127. Any State desiring the special incentive grant to which it is entitled under this part for any fiscal year shall make application therefor, in accordance with the requirements set forth in section 142, to the Commissioner. Such application shall be submitted at such time and contain such information as the Commissioner shall require by regulation and shall contain a statement of such policies and procedures as will insure that funds granted to the State under this part will be (1) made available to local educational agencies within that State which have the greatest need for assistance under this title, and (2) used, in accordance with the applicable provisions of this title, for programs and projects designed to meet the special educational needs of educationally deprived children.

DEFINITIONS

SEC. 128. For the purpose of this part the term "effort index" when applied to States, means the per centum expressing the ratio of expenditures from all non-Federal sources in a State for public elementary and secondary education to the total personal income in such State, and the term "national effort index" means the per centum expressing the ratio of such expenditures in all States to the total personal income in all States; and the term "State" means the fifty States and the District of Columbia.

PART C—SPECIAL GRANTS

ELIGIBILITY AND MAXIMUM AMOUNT OF SPECIAL GRANTS

SEC. 131. (a) Each local educational agency in a State which is eligible for a grant under this title for any fiscal year shall be entitled to an additional grant for that fiscal year if it meets the requirements of subsection (b). The amount of such grant shall be determined in accordance with subsection (c).

(b)(1) A local educational agency shall be entitled to a grant under this part for any fiscal year if the school district of such agency is located in a county in which—

(A) The number of children described in paragraph (2) for such year amounts to at least 200 per centum of the average number of such children in all counties in the State in which such agency is located for that fiscal year; or

(B) The number of children so described in such county for such year is 10,000 and amounts to 5 per centum of the total number of children in such county.

(2) For the purposes of paragraph (1), the children counted with respect to a local educational agency shall be those children in such county who are—

(A) In families having an annual income of $3,000 or less; or

(B) In families receiving an annual income in excess of $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; or

(C) Living in institutions for neglected or delinquent children or being supported in foster homes with public funds.

(3)(A) Determinations with respect to numbers of children in any county under paragraph (2) shall be made by the Commissioner on the basis of the most recent satisfactory data available to him.

(B)(i) The number of children determined with respect to one or more counties shall be allocated by the Commissioner, for the purposes of paragraph (2), among the local educational agencies with school districts located in such county or counties.

(ii) In any case where—

(I) Two or more local educational agencies serve, in whole or in part, the same geographical area; or

(II) A local educational agency provides free public education for a substantial number of children who reside in the school district of another local educational agency, the Commissioner may allocate the number of children determined under this subsection among such agencies in such a manner as will best achieve the purposes of this section.

(C)(i) For the purposes of paragraph (2), the Commissioner shall determine the number of children from families having an annual income of $3,000 or less on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this subsection.

(ii) For the purposes of this subsection, the Secretary of Health, Education, and Welfare shall determine the number of children from families receiving an annual income in excess of $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act and the number of children living in institutions for neglected or delinquent children or being supported in foster homes with public funds, on the basis of caseload data for the month of January of the preceding fiscal year, or to the extent that such data are not available to him before April 1 of the calendar year in which the determination is made, then on the basis of the most recent data available to him at the time of such determination. For the purposes of this subsection, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(c) The amount of the grant to which a local educational agency shall be entitled for any fiscal year shall be—

(A) The number of children determined with respect to such agency under subsection (b); multiplied by—

(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State in which such agency is located.

(d) Notwithstanding any other provision of this section, no payments for any fiscal year under this part to the local educational agencies in a single State shall exceed 12 per centum of the aggregate payments to all local educational agencies in that year under this part.

(e)(1) The aggregate of the amount for which all local educational agencies are eligible under this part shall not exceed $75,000,000 for any fiscal year. If, for any fiscal year, such aggregate, as computed without regard to the preceding sentence, exceeds $75,000,000, the amount for which each local educational agency is eligible shall be reduced ratably until such aggregate does not exceed such limitation.

(2) For the purpose of making payments under this part there are authorized to be appropriated not in excess of $75,000,000 for the fiscal year ending June 30, 1975.

(f) For the purposes of this section, the term—

(1) "State" means the fifty States and the District of Columbia; and

(2) "children" includes all children aged five through seventeen, inclusive.

(ED. NOTE: Effective July 1, 1975, part C of such title I is repealed.)

PART D—GENERAL PROVISIONS

APPLICATION

SEC. 141. (a) A local educational agency may receive a grant under this title for any fiscal year only upon application therefor approved by the appropriate State educational agency, upon its determination (consistent with such basic criteria as the Commissioner may establish)—

(1) That payments under this title will be used for the excess costs of programs and projects (including the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools eligible for assistance under this title, the training of teachers, and, where necessary, the construction of school facilities and plans made or to be made for such programs, projects, and facilities) (A) which are designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families (and at the discretion of the local educational agency, in any school of such agency not located in such a school attendance area, at which the proportion of children in actual average daily attendance from low-income families is substantially the same as the proportion of such children in such an area of that agency) and (B) which are of sufficient size, scope, and quality to give reasonable promises of substantial progress toward meeting those needs and to this end involve an expenditure of not less than $2,500, except that the State educational agency may with respect to any applicant reduce the $2,500 requirement if it determines that it would be impossible, for reasons such as distance or difficulty of travel, for the applicant to join effectively with other local educational agencies for the purpose of meeting the requirement; and nothing herein shall be deemed to preclude two or more local educational agencies from entering into agreements, at their option, for carrying out jointly operated programs and projects under this title: *Provided*, That the amount used for plans for any fiscal year shall not exceed 1 per centum of the amount determined for that agency for that year pursuant to section 103 or $2,000, whichever is greater;

(2) That the local educational agency has provided satisfactory assurance that section 141A will be complied with;

(3) That (A) the local educational agency has provided satisfactory assurance that the control of funds provided under this title, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this title, and that a public agency will administer such funds and property, (B) Federal funds made available under this title will be so used (i) as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this title, and (ii) in no case, as to supplant such funds from non-Federal sources, and (C) State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this title: *Provided*, That any finding of noncompliance with this clause shall not affect the payment of funds to any local educational agency until the fiscal year beginning July 1, 1972, and *Provided further*, That each local educational agency receiving funds under this title

shall report on or before July 1, 1971, and on or before July 1 of each year thereafter with respect to its compliance with this clause;

(4) In the case of any project for construction of school facilities, that the project is not inconsistent with overall State plans for the construction of school facilities and that the requirements of section 433 of the General Education Provisions Act will be complied with on all such construction projects;

(5) In the case of an application for payments for planning, (A) that the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result in a program or project which will be carried out under this title, and (B) that planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title;

(6) That effective procedures, including provisions for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs in meeting the special educational needs of educationally deprived children;

(7) That the local educational agency will make an annual report and such other reports to the State educational agency, in such form and containing such information (which in the case of reports relating to performance is in accordance with specific performance criteria related to program objectives), as may be reasonably necessary to enable the State educational agency to perform its duties under this title, including information relating to the educational achievement of students participating in programs carried out under this title, and will keep such records and afford such access thereto as the State educational agency may find necessary to assure the correctness and verification of such reports;

(8) That the local educational agency is making the application and all pertinent documents related thereto available to parents and other members of the general public and that all evaluations and reports required under paragraph (7) shall be public information;

(9) In the case of a project for the construction of school facilities, that, in developing plans for such facilities due consideration has been given to compliance with such standards as the Secretary may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons;

(10) That effective procedures will be adopted for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects;

(11) In the case of a project for the construction of school facilities, that, in developing plans for such facilities, due consideration has been given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project);

(12) In the case of projects involving the use of education aides, the local educational agency sets forth well-developed plans providing for coordinated programs of training in which education aides and the professional staff whom they are assisting will participate together;

(13) That, where a school attendance area does not meet the requirement of paragraph (1)(A) of this subsection for a fiscal year, or in the case of a local educational agency electing to allocate funds under section 150, where such an area does not meet the requirement of that section, but did meet the appropriate requirement in either of the two preceding fiscal years, that school attendance area shall be considered to meet the applicable criterion for that fiscal year; and

(14) That the local educational agency shall establish an advisory council for the entire school district and shall establish an advisory council for each school of such agency served by a program or project assisted under section 143(a)(2), each of which advisory councils—

(A) Has as a majority of its members parents of the children to be served,

(B) Is composed of members selected by the parents in each school attendance area,

(C) Has been given responsibility by such agency for advising it in the planning for, and the implementation and evaluation of, such programs and projects, and

(D) Is provided by such agency, in accordance with regulations of the Commissioner, with access to appropriate information concerning such programs and projects.

(b) It is the intent of the Congress to encourage, where feasible, the development for each educationally deprived child participating in a program under this title of an individualized written educational plan (maintained and periodically evaluated), agreed upon jointly by the local educational agency, a parent or guardian of the child, and when appropriate, the child.

(c) The State educational agency shall not finally disapprove in whole or in part any application for funds under this title without first affording the local educational agency submitting the application reasonable notice and opportunity for a hearing.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 141A.(a) To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of clauses (A) and (B) of paragraph (1) of subsection (a) of section 141, paragraph (2) of subsection (a) of such section, and clauses (A) and (B) of paragraph (3) of subsection (a) of such section 141.

(b)(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required and secondary schools as required by subsection (a), the Commissioner shall waive such requirement and the provisions of section 141(a)(2), and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

(2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of paragraph (a) and section 141(a)(2) shall be waived.

(3) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under this title.

(4)(A) The Commissioner shall not take any final action under this section until he has afforded the State educational agency and local educational agency affected by such action at least sixty days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

(B) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(C) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

ASSURANCES FROM STATES

SEC. 142. (a) Any State desiring to participate under this title (except with respect to the program provided for in section 122 relating to migratory children of migratory agricultural workers) shall submit through its State educational agency to the Commissioner an application, in such detail as the Commissioner deems necessary, which provides satisfactory assurance—

(1) That, except as provided in section 143(b), payments under this title will be used only for programs and projects which have been approved by the State educational agency pursuant to section 141(a) and which meet the applicable requirements of that section and section 121 and that such agency will in all other respects comply with the provisions of this title, including the enforcement of any obligations imposed upon a local educational agency under section 141(a);

(2) That such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to local educational agencies) under this title; and

(3) That the State educational agency will make to the Commissioner (A) periodic reports (including the results of objective measurements required by section 141(a)(6) and of research and replication studies) evaluating the effectiveness of payments under this title and of particular programs assisted under it in improving the educational attainment of educationally deprived children, and (B) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this title (including such reports as he may require to determine the amounts which the local educational agencies of that State are

eligible to receive for any fiscal year), and assurance that such agency will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) The Commissioner shall approve an application which meets the requirements specified in subsection (a), and he shall not finally disapprove an application except after reasonable notice and opportunity for a hearing to the State educational agency.

PAYMENT[1]

SEC. 143(a)(1) The Commissioner shall, subject to the provisions of section 144, from time to time pay to each State, in Advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this title. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this title (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

(2) From the funds paid to it pursuant to paragraph (1) each State educational agency shall distribute to each local educational agency of the State which is not ineligible by reason of section 103(b) and which has submitted an application approved pursuant to section 141(a) the amount for which such application has been approved, except that this amount shall not exceed the amount determined for that agency pursuant to section 103.

(b) The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this title (including technical assistance for the measurements and evaluations required by section 141(a)(6)), except that the total of such payments in any fiscal year shall not exceed—

(1) 1 Per centum of the amount allocated to the State and its local educational agencies as determined for that year under this title; or

(2) $150,000, or $25,000 in the case of Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, whichever is the greater.

(c)(1) No payments shall be made under this title for any fiscal year to a State which has taken into consideration payments under this title in determining the eligibility of any local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

SEC. 144. If the sums appropriated for any fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under section 121, 122, or 123 shall be equal to the total amount of the grant as computed under each such section. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under part A of this title for such year, the allocations to such agencies and allocations under part B shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated, except that entitlements under such part B shall be taken into consideration only to the extent that appropriations for such title I (excluding part C thereof) exceed $1,396,975,000 for any fiscal year and such entitlements shall not exceed $50,000,000 in any fiscal year. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 per centum of its allocation under part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 per centum of its allocation for such year. If the aggregate of the amounts to which all States are entitled under such part B exceeds $50,000,000 the entitlement of each State shall be reduced ratably until such aggregate does not exceed $50,000,000 in such fiscal year.

In case additional funds become available for making payments under this title or that year, such reduced amounts shall be increased on the same basis that they were reduced. In order to permit the most effective use of all appropriations made to carry out this title, the Commissioner may set dates by which (1) State educational agencies must certify to him the amounts for which the applications of educational agencies have been or will be approved by the State, and (2) State educational agencies referred to in section 122 must file applications. If the maximum grant a local educational agency or an agency referred to in section 122 would receive (after any ratable reduction which may have been required under the first sentence of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the State educational agency in furtherance of the purposes of this title in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of paragraph (2) of section 103(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this title in such manner as the respective State educational agencies shall prescribe.

WITHHOLDINGS

SEC. 146. Whenever the Commissioner, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 122 or 142(b) the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this title, or payments by the State educational agency under this title shall be limited to local educational agencies not affected by the failure, as the case may be.

JUDICIAL REVIEW

SEC. 147. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under section 122 or 142(b) or with his final action under section 146, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

NATIONAL ADVISORY COUNCIL

SEC. 148. (a) There shall be a National Advisory Council on the Education of Disadvantaged Children (hereinafter in this section referred to as the "National Council") consisting of fifteen members appointed by the President, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, for terms of three years, except that (1) in the case of initial members, five shall be appointed for terms of one year each and five shall be appointed for terms of two years

[1](ED. NOTE: Section 943(d) of Pub. L. 93-380 provides: "Notwithstanding any provision of part A of title I of the Elementary and Secondary Education Act of 1965, the amount which the Commonwealth of Puerto Rico is eligible to receive under subpart 1 of such part A or under sections 121, 122, or 123 for the fiscal year ending June 30, 1975, shall not exceed 50 per centum of the full amount the Commonwealth of Puerto Rico would receive (after required ratable reductions) under such subpart or section but for this subsection, and for the fiscal years ending June 30, 1976, June 30, 1977, and June 30, 1978, such amount shall not exceed 75 per centum of the full amount the Commonwealth of Puerto Rico would receive (after required ratable reductions) under such subpart or section but for this subsection.")

each, and (2) appointments to fill vacancies shall be only for such terms as remain unexpired. The National Council shall meet at the call of the Chairman.

(b) The National Council shall review and evaluate the administration and operation of this title, including its effectiveness in improving the educational attainment of educationally deprived children, including the effectiveness of programs to meet their occupational and career needs, and make recommendations for the improvement of this title and its administration and operation. These recommendations shall take into consideration experience gained under this and other Federal educational programs for disadvantaged children and, to the extent appropriate, experience gained under other public and private educational programs for disadvantaged children.

(c) The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this title) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include a report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this title, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until July 1, 1978.

TREATMENT OF EARNINGS FOR PURPOSES OF AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 149. (a) Notwithstanding the provisions of title IV of the Social Security Act, a State plan approved under section 402 of such Act shall provide that for a period of not less than twelve months, and may provide that for a period of not more than twenty-four months, the first $85 earned by any person in any month for services rendered to any program assisted under this title of this Act shall not be regarded (A) in determining the need of such person under such approved State plan or (B) in determining the need of any other individual under such approved State plan.

(b) Notwithstanding the provisions of subsection (a) of this section, no funds to which a State is otherwise entitled under title IV of Social Security Act for any period before the fourth month after the adjournment of the State's first regular legislative session which adjourns more than sixty days after enactment of the Elementary and Secondary Education Amendments of 1966, shall be withheld by reason of any action taken pursuant to a State statute which prevents such State from complying with the requirements of subsection (a) of this section.

ALLOCATION OF FUNDS WITHIN THE SCHOOL DISTRICT OF A LOCAL EDUCATIONAL AGENCY

SEC. 150. (a) For any fiscal year not more than 20 local educational agencies selected for the purpose of section 821(a)(5) of the Education Amendments of 1974 may elect, with the approval of the district-wide parent advisory council which is required to be established under section 141(a)(14) of this title, to allocate funds received from payments under this title on the basis of a method or combination of methods other than the method provided under section 141(a)(1)(A). Any method selected pursuant to this section shall be so designed and administered as to be free from racial or cultural discrimination.

(b) Any local educational agency to which this section applies shall submit such reports to the Director of the National Institute of Education at such time and in such manner as the Director may reasonably require to carry out his responsibilities under section 821(a)(5) of the Education Amendments of 1974.

PROGRAM EVALUATION

SEC. 151. (a) The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs or projects.

(b) The Commissioner shall develop and publish standards for evaluation of program or project effectiveness in achieving the objectives of this title.

(c) The Commissioner shall, where appropriate, consult with State agencies in order to provide for jointly sponsored objective evaluation studies of programs and projects assisted under this title within a State.

(d) The Commissioner shall provide to State educational agencies, models for evaluations of all programs conducted under this title, for their use in carrying out their functions under section 143(a), which shall include uniform procedures and criteria to be utilized by local educational agencies, as well as by the State agency in the evaluation of such programs.

(e) The Commissioner shall provide such technical and other assistance as may be necessary to State educational agencies to enable them to assist local educational agencies in the development and application of a systematic evaluation of programs in accordance with the models developed by the Commissioner.

(f) The models developed by the Commissioner shall specify objective criteria which shall be utilized in the evaluation of all programs and shall outline techniques (such as longitudinal studies of children involved in such programs) and methodology (such as the use of tests which yield comparable results) for producing data which are comparable on a statewide and nationwide basis.

(g) The Commissioner shall make a report to the respective committees of the Congress having legislative jurisdiction over programs authorized by this title and the respective Committees on Appropriations concerning his progress in carrying out this section not later than January 31, 1975, and thereafter he shall report to such committees no later than January 31 of each calendar year the results of the evaluations of programs and projects required under this section, which shall be comprehensive and detailed, as up-to-date as possible, and based to the maximum extent possible on objective measurements, together with any other related finding and evaluations and his recommendations with respect to legislation.

(h) The Commissioner shall also develop a system for the gathering and dissemination of results of evaluations and for the identification of exemplary programs and projects, or of particularly effective elements of programs and projects, and for the dissemination of information concerning such programs and projects or such elements thereof to State and local educational agencies responsible for the design and conduct of programs and projects under this title, and to the education profession and the general public.

(i) The Commissioner is authorized, out of funds appropriated to carry out this title in any fiscal year, to expend such sums as may be necesary to carry out the provisions of this section, but not to exceed one-half of 1 per centum of the amount appropriated for such program, of which $5,000,000 for each fiscal year ending prior to July 1, 1977, shall be available only for the surveys and studies authorized by section 821 of the Education Amendments of 1974.

DEFINITIONS [1]

SEC. 403. For the purposes of this Act—

(1) The term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes, (A) except for purposes of section 6, real property held in trust by the United States for individual Indians or Indian tribes, which is subject to restrictions on alienation imposed by the United States, (B) for one year beyond the end of the fiscal year in which occurred the sale or transfer thereof by the United States, any property considered prior to such sale or transfer to be Federal property for the purposes of this Act, and (C) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, such term does not include (A) any real property used for a labor supply center, labor home, or labor camp for migratory farmworkers, (B) any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal services, or (C) any low-rent housing project held under title II of the National Industrial Recovery Act, the Emergency Relief Appropriation Act of 1935, the United States Housing Act of 1937, the Act of June 28, 1940 (Pub. L. 671 of the Seventy-sixth Congress), or any law amendatory of or supplementary to any such Act.

(2) The term "child", except as used in title II, means any child who is within the age limits for which the applicable State provides free public education.

(3) The term "parent" includes a legal guardian or other person in loco parentis.

(4) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that for the purposes of title II such term does not include any education provided beyond grade 12.

(5) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under title II of this Act or title II or III of the

[1] Applicable to Title I of ESEA, originally enacted as Title II of Pub. L. 81-874. "Title II" as used in these definitions means Title I of the Elementary and Secondary Education Act of 1965.

Elementary and Secondary Education Act of 1965.

(6)(A) ED. NOTE: Omitted because not applicable.

(B) For purposes of title II, the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political sul division of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school, and it also includes (except for purposes of sections 203(a)(2), 203(b), and 205(a)(1)) any State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education) or for children in institutions for neglected or delinquent children.

(7) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(8) The term "State" means a State, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, or the Virgin Islands, and for purposes of title II, such term includes the Trust Territory of the Pacific Islands.

(9) The terms "Commissioner of Education" and "Commissioner" mean the United States Commissioner of Education.

(10) Average daily attendance shall be determined in accordance with State law, except that (A) the average daily attendance of children with respect to whom payment is to be made under section 3 or 4 of this Act shall be determined in accordance with regulations of the Commissioner, and (B) notwithstanding any other provision of this Act, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this Act the attendance of such child at such school shall be held and considered (i) to be attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (ii) not to be attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

(11) The term "county" means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

(12) The term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(13) The term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(14) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(15) For the purpose of title II, the term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education, provided beyond grade 12.

(16) For purposes of title II, the "average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies as defined in section 403(6)(B) in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(17) For the purposes of title II, "excess costs" means those costs directly attributable to programs and projects which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects (but not including expenditures for any comparable State or local special programs for educationally deprived children or expenditures for bilingual programs or special education for handicapped children or children with specific learning disabilities, if such expenditures for bilingual eduation and special education are used to provide, to children of limited English-speaking ability and handicapped children, and children with specific learning disabilities who reside in title I project areas, services which are comparable to those provided to similarly disadvantaged children residing in nonproject areas).

PART 116a—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED AND NEGLECTED AND DELINQUENT CHILDREN

Subpart A—General

Sec.
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116a.2 Definitions.

Subpart B—Eligibility for and Amount of Grants

116a.3 Eligibility of local educational agencies.
116a.4 Determination of grant which a local educational agency in a State is eligible to receive.
116a.5 Allocation of county aggregate grants by State educational agencies.
116a.6 Local educational agencies in more than one county.
116a.7 Local educational agencies with overlapping jurisdictions or serving children from another school district.
116a.8 Changes in local educational agencies.
116a.9 Ratable reductions.
116a.10 Further assistance to certain local educational agencies.
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116a.12 Special incentive grants.
116a.13 Grants to local educational agencies in the outlying areas and payments to the Secretary of the Interior.

Subpart C—Program Requirements

116a.19 Project applications.
116a.20 Selection of Title I attendance areas.
116a.21 Needs assessment.
116a.22 Project description, size, scope, and quality.
116a.23 Participation by children enrolled in private schools.
116a.23–1 Waiver of requirements for participation by children enrolled in private schools.
116a.24 Bonus pay for teachers.
116a.25 Parent advisory councils.
116a.26 Comparability of services.

AUTHORITY: Section 2, Pub. L. 89-10, 79 Stat. 27, as amended, (20 U.S.C. 241a–241m, 242, 244), unless otherwise noted.

Subpart A—General

§ 116a.1 Applicability.

(a) The regulations in this part and the general regulations in Part 116 of this chapter govern programs and projects for which funds are provided to local educational agencies under Title I of the Elementary and Secondary Education Act to meet the special educational needs of educationally deprived children in school attendance areas with high concentrations of children from low-income families and for children in local institutions for neglected or delinquent children.

(b) Assistance provided under this part is subject to applicable provisions contained in the General Provisions for Education program regulations subchapter A of this chapter (relating to fiscal, administrative, property management and other matters) including Parts 100, 100b (and related appendices) and 100c.

(c) The text of the Title I statute is contained in full in the Appendix to Part 116 of this chapter.

(20 U.S.C. 241a)

§ 116a.2 Definitions.

As used in this part—

"Attendance area" means, in relation to a particular public school, the geographical area in which the children who are normally served by that school reside.

(20 U.S.C. 241e(a)(1))

"Educationally deprived children" means (1) children who have need for special educational assistance in order that their level of educational attainment may be raised to that appropriate for children of their age, and (2) children who are handicapped.

(20 U.S.C. 241e(a)(1)(A))

"Institution for delinquent children" means a public or private residential facility which is operated primarily for the care of children who have been

adjudicated to be delinquent or in need of supervision. The term also includes an adult correctional institution in which children reside.

(20 U.S.C. 241c(c) (2) (B), (C))

"Institution for neglected children" means a public or private residential facility (other than a foster home) which is operated primarily for the care of at least ten children who have been committed to the institution, or voluntarily placed in the institution pursuant to applicable State law, because of the abandonment of or neglect by, or death of, parents or persons acting in the place of parents.

(20 U.S.C. 241c(c) (2) (B), (C))

"Project area" means an attendance area, or combination of attendance areas, having a high concentration of children from low-income families which, without regard to the locality of the project itself, is designated as an area from which children are to be selected to participate in a project.

(20 U.S.C. 241e(a) (1))

Subpart B—Eligibility for and Amount of Grants

§ 116a.3 Eligibility of local educational agencies.

(a) A local educational agency in a State (other than Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) is eligible for a grant under Title I for a fiscal year if the Commissioner determines, on the basis of satisfactory data available to him, that the number of children counted under section 103(c) of Title I for the school district of such agency for such year amounts to at least 10.

(b) If the Commissioner does not have available satisfactory data on a school district basis, a local educational agency is eligible for such a grant if the school district served by such agency is located in whole or in part in a county in which the Commissioner determines that there are 10 or more of such children.

(20 U.S.C. 241(c) (b))

§ 116a.4 Determination of grant which a local educational agency in a State is eligible to receive.

The grant which a local educational agency in a State (other than Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) is eligible to receive under Subpart 1 of Part A of Title I for a fiscal year will be determined by the Commissioner in accordance with the provisions of sections 103(a) (2)–(4) and 103(c) of Title I, subject to the provisions of section 144 of such Title.

(20 U.S.C. 241c(a) (2), (3), (4), 241c(c))

§ 116a.5 Allocation of county aggregate grants by State educational agencies.

(a) *General.* Pursuant to Section 103 of Title I, the Commissioner is authorized to determine the grant which a local educational agency is eligible to receive, if satisfactory data are available from the Department of Commerce for such agencies. However, if such data are not available, these determinations are made for counties, and the State educational agencies allocate the county amounts among the local educational agencies in the counties. This section prescribes criteria for the allocation by a State educational agency of the aggregate amount determined for a county (under section 103(a) (2) of Title I) among the local educational agencies whose school districts are located in whole or in part in such county. Such aggregate amount is hereinafter referred to as the county aggregate grant.

(b) *Children in institutions.* To the extent that a county aggregate grant is based on the number of children aged 5 to 17, inclusive, living in institutions for neglected or delinquent children, the county aggregate grant shall be allocated on the basis of the location of such institutions in the various school districts of the local educational agencies concerned. For the purpose of this part, the number of such children shall be the number in the October caseload who have resided in the institution for at least 30 days. If a State educational agency determines that a local educational agency is unable or unwilling to provide for the special educational needs of such children, that portion of the grant of that local educational agency which is based on such children shall be assigned to the State educational agency if it assumes that responsibility. If the State educational agency does not assume that responsibility, it shall designate another State or local public agency that is able and willing to assume that responsibility. If no such public agency is found by the State educational agency, the amount attributable to such children shall be deducted from the local educational agency's allocation and shall not be available for reallocation.

(c) *Allocation of remainder of county grant.* Subject to applicable provisions of law (including the provisions of section 144 of Title I), the remainder of the county aggregate grant shall be allocated by the State educational agency among the several local educational agencies whose school districts lie (in whole or in part) within the county on the basis of the current distribution in the county of children aged 5 to 17, inclusive, from low-income families (using a poverty level selected by the State educational agency consistent with the purposes of Title I) as determined on the basis of the available data which such State educational agency deems best to reflect the current distribution in the county of children aged 5 to 17, inclusive, from low-income families. The following are considered acceptable types of data: (1) 1970 census data on the number of children from low-income families, and (2) data on children in families receiving payments under the program of aid to families with dependent children under a State plan approved under Title IV of the Social Security Act and foster children. Other types of data must be approved by the Commissioner before use by the State educational agency.

(20 U.S.C. 241c(a) (2), (3) (A))

§ 116a.6 Local educational agencies in more than one county.

The allocation made pursuant to § 116.5 to a local educational agency located in more than one county shall be made separately for each county in which a part of the school district served by that local educational agency is located. The grant for such a local educational agency shall be the sum of its allocations from the aggregate grants of the counties in which it is located.

(20 U.S.C. 241c(a) (2))

§ 116a.7 Local educational agencies with overlapping jurisdictions or serving children from another school district.

In any case in which two or more local educational agencies have responsibility for different groups of children in a school district, or serve school districts which overlap, or in any case in which a local educational agency provides free public education for a substantial number of children residing in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes for which the grants under Title I are made available.

(20 U.S.C. 241c(a) (3) (B))

§ 116a.8 Changes in local educational agencies.

(a) *Merger or consolidation.* In any case in which there is a merger or consolidation of local educational agencies during the school year, the grant which each such agency was eligible to receive shall become available to the surviving or consolidated agency. The surviving or consolidated agency shall be responsible for projects which have not been completed and were previously approved for each of the agencies participating in the merger or consolidation.

(b) *Changes in service areas.* In any case in which the geographical area of a school district served by a local educational agency is diminished, or divided with another local educational agency, during the school year, the State educational agency shall redetermine the grants by using the same method used in making the original determination. However, nothing herein shall preclude the completion, where appropriate, of previously approved projects by the agency originally submitting the projects by itself or through a cooperative undertaking.

(20 U.S.C. 241c(a) (2))

§ 116a.9 Ratable reductions.

If the sums appropriated for any fiscal year are not sufficient to pay in full the amounts which all local educational agencies are eligible to receive under Title I for that year, the amounts available to local educational agencies shall be determined in accordance with section 144 of Title I.

(20 U.S.C. 241h)

§ 116a.10 Further assistance to certain local educational agencies.

Section 101(a)(10) of Pub. L. 93-380 provides for an authorization of appropriations for each fiscal year to be allocated at the discretion of the Commissioner to assist local educational agencies whose total allocation under part A of Title I is 90 per centum or less than such allocation under such part A during the preceding fiscal year. The Commissioner will distribute any funds appropriated under section 101(a)(10) among local educational agencies described in the preceding sentence in such a manner as to raise the allocations for each such agency to 90 percent of its preceding fiscal year's allocation or as close to that level as the appropriation will permit. Any funds in excess of the amount required for that purpose shall be allocated by the Commissioner to those local educational agencies which would have received more than 90 percent of their preceding year's allocation if the "85 percent hold harmless" provisions of section 144 of Title I were not in effect. The Commissioner will make such allocations on the basis of the most satisfactory data available to him as to the amount each such local educational agency would have received in the absence of the "hold harmless" provision.

(20 U.S.C. 241b-1, 241h; Pub. L. 93-380, sec. 101(a)(10))

§ 116a.11 Reallocation.

(a) *States.* (1) The State educational agency in the States of the Union, the District of Columbia, and Puerto Rico shall determine not earlier than March 31 of a fiscal year the amounts allocated for that year to local educational agencies in excess of the amounts required for approved programs and projects and shall certify such amounts to the Commissioner. Such amounts shall be made available, first by State educational agencies to other educational agencies in the particular State but not so as to make available to an agency more than the maximum grant to which that agency is entitled. (2) The amounts made available under this paragraph for distribution within a State shall be distributed among the local educational agencies which apply for additional funds and which have the greatest needs to redress inequities inherent in, or mitigating hardships caused by, the application of the provisions of section 103(a)(2) of Title I and §§ 116a.4 and 116a.5. The needs of the local educational agencies, and the amounts to which they shall be eligible, shall be determined on the basis of the extent to which the State educational agency determines the application of those provisions fail, as a result of population shifts, changing economic conditions, or other reasons, to reflect actual needs. (3) In the event excess amounts are still available after applying the foregoing provisions of this paragraph, those excess amounts will be distributed by the Commissioner among other States of the Union or the District of Columbia, or Puerto Rico in accordance with their needs as determined by the Commissioner for use by local educational agencies having the greatest need therefor. In no event, however, will the total amount made available to an agency exceed the maximum grant to which that agency is entitled. (4) "Maximum grant" for the purpose of this subsection means the grant which a local educational agency is eligible to receive before the operation of the provision for ratable reductions as set forth in Section 144 of Title I and § 116a.9.

(b) *Outlying areas; Department of Interior.* By March 31 of each fiscal year the Commissioner may require (1) State educational agencies in Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands to certify to him the amounts for which applications have been or will, during that fiscal year, be approved by such agencies, and (2) the Department of the Interior to report the amount needed by that Department for Title I projects. The excess of the amounts made available to any of such agencies or the Department of the Interior over the amounts which the Commissioner determines are needed by them will be redistributed among eligible agencies according to their respective needs for such amounts as redetermined by the Commissioner at that time.

(20 U.S.C. 241h)

§ 116a.12 Special incentive grants.

(a) *General.* Subject to the provisions of section 144 of Title I any State of the Union and the District of Columbia shall be entitled to receive a grant pursuant to Part B of Title I if it meets the requirements of that Part.

(b) *Applications.* (1) An incentive grant under this section will be made to a State upon application therefor by the State educational agency to the Commissioner submitted not more than 30 days after the date on which the Commissioner notifies the State educational agency of the State's eligibility for such grant and the amount thereof, or by the end of the applicable fiscal year, whichever occurs earlier. (2) Such an application shall include information concerning the policies and procedures to be used in selecting the local educational agencies which will receive incentive grant funds and the amounts of such assistance. Such information shall be presented in detail sufficient to assure the Commissioner that incentive grant funds will be made available to local educational agencies in the State with the greatest need for assistance under Title I and in amounts corresponding to their respective needs. Such policies and procedures shall take into account factors appropriate for those purposes, including the amounts available to local educational agencies under Part A of Title I; the number and percentage of children from low-income families in the several school districts; the number and percentage of such children not otherwise being served under Title I; any sudden influx in the number of such children; dropout rates; the incidence and severity of special educational needs as indicated by test scores or other measures; the availability of funds from other sources for programs for educationally deprived children; and the local fiscal effort.

(c) *Use of funds.* Incentive grant funds shall be made available to a limited number of local educational agencies for specific projects which the State educational agency deems to be innovative or which: (1) Show special promise of success through the modification or revision of existing Title I programs; (2) are of sufficient size, scope, and quality as required by § 116a.22; (3) include performance criteria to be used in connection with the evaluation of such projects; and (4) otherwise meet the requirements for projects under Part A of Title I.

(20 U.S.C. 241d, 241d-1, 241d-2, 241g(b)(1))

§ 116a.13 Grants to local educational agencies in the outlying areas and payments to the Secretary of the Interior.

(a) *Allotments.* An amount equal to one per centum of the amount allotted for grants to local educational agencies in States as defined in section 103(a)(4) of Title I shall be allotted (1) for grants to local educational agencies of Guam, American Samoa, the Virgin Islands and the Trust Territory of the Pacific Islands and (2) for payments to the Secretary of the Interior. Such additional amounts shall be allotted as will assure that the amount for each such outlying area and for payments to the Secretary of the Interior shall not be less than the corresponding amount for fiscal year 1973.

(b) *Out-of-State Indian children.* The Secretary of the Interior shall, from the amount allotted to him in accordance with paragraph (a) make payments to local educational agencies upon such terms as the Commissioner finds will best carry out the purposes of Title I, with respect to Indian children who do not reside in the State in which such agency is located but who are being educated in the elementary and secondary schools of such agencies under special contracts with the Department of Interior. The use of such funds for the special educational needs of such children shall be approved by the State educational agency of the State in which the local educational agency is located and the Department. The amount available to a local educational agency shall not exceed for each such child 40 per centum of (1) the average per pupil expenditure in the State in which the agency is located or (2) 120 per centum of such expenditure in the United States, whichever is greater.

(c) *Agreements.* The remainder of the payments to be made to the Secretary of the Interior not required for the purposes of paragraph (b) shall be made pursuant to an agreement between the Commissioner and the Secretary of the Interior, containing such assurances and terms as the Commissioner determines will best achieve the purpose of Title I. Such agreement shall contain assurances that payments made pursuant to this paragraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the

applicable requirements of Title I, this Part, and Part 116.

(20 U.S.C. 241c(a)(1), 241c(d))

Subpart C—Program Requirements

§ 116a.19 Project applications.

(a) *General.* Grants under Title I to a local educational agency may be made only on the basis of applications therefor which are submitted to the State educational agency and approved by it in an amount not in excess of the allocation of the funds made available for that local educational agency pursuant to § 116a.5 of Subpart B.

(b) *Projects and project areas.* (1) An application for a grant under Title I by a local educational agency shall set forth one or more projects specifically designed to meet the special educational needs of educationally deprived children residing in a school attendance area (or areas) having high concentrations of children from low-income families. (2) If the local educational agency has children living in institutions for neglected or delinquent children, who have been counted pursuant to section 103(c)(1)(C) of Title I and § 116a.5(b), then such application shall also set forth a project (or projects) designed specifically to meet special educational needs of such children.

(c) *Location of services.* The project itself shall be carried out at locations where the needs of the children can best be served.

(d) *Prohibition against assignment of allocation.* Subject to the reallocation authority in § 116a.11 of Subpart B, no local educational agency may assign any part of its allocation to another agency. This does not, however, prevent a State educational agency from exercising its authority under § 116a.7 nor prevent two or more applicants in one or more States from conducting a joint program or project (including a planning project) through a combined use of funds made available to them.

(20 U.S.C. 241a, 241e(a)(1), 241g(a)(2))

§ 116a.20 Selection of Title I attendance areas.

(a) *Designation of project areas.* An application for a grant under Title I by a local educational agency (other than an application for a grant for planning) shall designate the project area or the institution for which each project set forth in the application is designed. The project area must be sufficiently restricted in size in relation to the nature of the project as to avoid jeopardizing the effectiveness of the project in meeting its aims and objectives.

(b) *Eligibility of attendance areas.* (1) Except as otherwise provided in paragraphs (g) and (h) and section 150 of Title I of the Act, a school attendance area for either a public elementary school or a public secondary school may be designated as a project area, or for inclusion in a project area, if it has, on a percentage or numerical basis, a high concentration of children from low-income families.

(2) An attendance area may be designated under paragraph (1) on a percentage basis if the percentage of children from low-income families in that attendance area is at least as high as the percentage of such children residing in the whole of the school district. In addition, upon specific request by the local educational agency, the State educational agency may approve the designation of attendance areas in which at least 30 percent of the children are from low-income families. For the purposes of the preceding sentence, such children includes only children who are determined to be eligible for free lunches, pursuant to the criteria established by the appropriate State educational agency pursuant to the National School Lunch Act (42 U.S.C. 1758b) and for which regulations are provided in 7 CFR 245.

(3) An attendance area may be designated under paragraph (1) on a numerical basis if the estimated number of children from low-income families residing in that attendance area is at least as large as the average number of such children residing in each of the several school attendance areas in the school district.

(4) If a combination of the numerical and percentage basis is used, the number of attendance areas actually designated under paragraph (1) may not exceed the number of such areas that could be so designated if only one such method had been used.

(5) Each of the provisions of this paragraph and of paragraphs (c), (d), (g), and (h) of this section may be applied separately to groups of schools (e.g., elementary, junior high school or middle school, and secondary) grouped in accordance with § 116a.26(i)(1) and (2).

(20 U.S.C. 241e(a)(1)(A))

(c) *Ranking of attendance areas.* (1) Except upon request to and approval by the State educational agency based on an assessment of particular educational needs in accordance with subparagraph (2) of this paragraph, a local educational agency shall not designate a school attendance area as a project area (or for inclusion in a project area) unless all attendance areas with a higher percentage or number of children of low-income families (depending on the method used to determine the eligibility of the school attendance area) have been so designated or have been designated to receive (through the use of funds from other sources) services of the same nature and scope as those that would otherwise be provided under Title I.

(2) A local educational agency is not required to designate an area on the basis of its rank. If such agency can demonstrate, to the satisfaction of the State educational agency, that the incidence and severity of educational deprivation in that area is substantially less than in other attendance areas proposed to be designated. In no event, however, shall the State educational agency approve such a request without first determining (in accordance with the procedures in § 116a.26) that the services provided with State and local funds in any area which has a higher percentage or number of children of low-income families but which is not designated for a project area are comparable to the services provided in other areas not designated.

(d) *Districts with no wide variance in the incidence of poverty.* If there is no wide variance in the concentrations of children from low-income families among the several school attendance areas in a school district, the whole of that school district may at the option of the local educational agency be regarded as a project area. Such a determination may be made only if the variation between the areas with the highest and lowest percentage of such children is not more than one-third of the average percentage of children from low-income families in the district as a whole.

(e) *Cooperative projects.* In the case of a project undertaken jointly by two or more local educational agencies, the project area with respect to each school district must be one that qualifies as a project area under this section. However, the whole of the project area must be considered in determining whether it is sufficiently restricted in size in relation to the nature of the project as to maintain the effectiveness of the project in meeting its aims and objectives.

(f) *Determining number of children from low-income families.* Except for the purposes of the second sentence of paragraph (b)(2) of this section, where data are not available to make an accurate determination of the number of children from low-income families, the number may be estimated on the basis of the number of children in families receiving Aid to Families with Dependent Children (AFDC), the number of children eligible to receive benefits under the National School Lunch Act, or any other reliable and uniform indicator of poverty, or a combination of such factors. However, whatever data are used must be applied uniformly throughout the applicant's school district.

(20 U.S.C. 241e(a)(1)(A))

(g) *School attendance areas qualifying in prior fiscal years.* A school attendance area which (1) does not meet the requirements of this section for a fiscal year but (2) did meet such requirements and received Title I services in either of the two fiscal years immediately preceding such fiscal year shall be deemed to meet such requirements for such fiscal year. A local educational agency shall not be required to apply the provisions of paragraph (c) of this section to a school attendance area described in the preceding sentence. Neither of such two preceding fiscal years shall be earlier than fiscal year 1975.

(20 U.S.C. 241e(a)(13); Senate Rept. No. 93-1026, p. 144 (1974))

(h) *Services to certain public schools in nonqualifying school attendance areas.* The purpose of section 101(a)(5)(A) of Pub. L. 93-380 amending section 141(a)(1)(A) of Title I is to allow local educational agencies to designate for projects, those schools which would otherwise qualify on the basis of their

own enrollments but do not qualify because they are not located in an attendance area with large numbers of children from low-income families. Therefore, at the discretion of a local educational agency, notwithstanding any other provision of this section, Title I services may be provided for educationally deprived children enrolled in a school of such agency although the attendance area of that school does not qualify under this section if the percentage or number of children from low-income families in average daily attendance at that school is at least as high as the districtwide average percentage or number required for eligibility on an attendance area basis in accordance with paragraph (b) of this section.

(20 U.S.C. 241e(a)(1)(A); House Rept. No. 93-805, p. 16-17 (1974))

§ 116a.21 Needs assessment.

The application by a local educational agency under this part shall contain sufficient information and documentation to enable the State educational agency to determine that the applicant local educational agency has taken the steps in making a needs assessment described as follows:

(a) *Review of existing data.* The local educational agency has reviewed appropriate existing data, including past evaluations of Title I projects in that local educational agency, and data on the performance in the agency's basic programs of instruction of children residing in all eligible attendance areas. This must be done to determine the incidence and severity of educational deprivation among all children residing in an eligible attendance area. Such children shall include children enrolled in private schools, preschool children, children of school age not enrolled in a school, children in local institutions for neglected or delinquent children, as well as children enrolled in a public school.

(b) *Selection of project areas, target groups, and the needs to be served.* The local educational agency, on the basis of its findings from the review conducted under paragraph (a) has selected: (1) The project areas (in accordance with the procedures of § 116a.20); (2) The age or grade levels at which it will operate the Title I project (or projects); and (3) The types of educational needs to be addressed by these projects.

(c) *Identification of all target group children.* The local educational agency, using appropriate data and specified criteria, has identified all of the educationally deprived children in the project areas, who are in the age or grade levels and have the types of educational needs identified in accordance with paragraph (b).

(d) *Identification of children most in need.* The local educational agency has secured any additional objective data which, in combination with the existing data specified in paragraph (a), will enable it to identify which of the educationally deprived children identified in paragraph (c) are most in need of special assistance.

(e) *Selection criteria.* The local educational agency has set forth specific criteria by which the educationally deprived children residing in the project areas and all children in institutions for neglected or delinquent children counted for payment under this part will be chosen to receive Title I services. Educationally deprived children chosen may include those identified as having the greatest need in accordance with paragraph (d) and those residing in a project area who participated in a project conducted in the previous year (if such children are still educationally deprived). A child may not be excluded from participating in a project because he or she is not from a low-income family or not attending school at the time.

(f) *Diagnostic procedures.* The local educational agency has used adequate diagnostic procedures to determine the special educational needs of the children chosen to be served in a Title I project.

(g) *Consultation.* In making the determinations under this section, the local educational agency has, to the extent feasible, consulted with teachers, parents, and persons knowledgeable of the needs of private and public school children and children in local institutions for neglected or delinquent children.

(20 U.S.C. 241e(a), (1), (2), and (b); House Rept. No. 93-805, p. 20-21)

§ 116a.22 Project description, size, scope, and quality.

(a) *Project description.* Each application for one or more projects under this part shall contain a description of the project in sufficient detail to enable the State educational agency to make the determinations detailed in paragraph (b) of this section. This description shall include:

(1) The educational objectives of the project and the relationship of these objectives to the special educational needs identified by the diagnostic procedures required by paragraph (f) of § 116a.21;

(2) The resources (including the type of staff and materials) to be used in the implementation of the projects and plans for their use;

(3) The time periods and instructional settings for the project services;

(4) The number of the children to be served and a general description of their special educational needs;

(5) The approaches, methods, and techniques that will be used to evaluate the success of the project in attaining its objectives;

(6) A budget detailing the expenditures required for the implementation of the project;

(7) The special educational needs and number of children, if any, who reside outside the project area and who will participate, as well as the manner of their participation; and

(8) Specific provisions for informing and consulting with parents concerning the services to be provided for their children under Title I, the performance of their children and the ways in which such parents can assist their children in realizing the benefits those services are intended to provide.

(b) *Size, scope, and quality.* A State educational agency shall not approve a project for which an application has been made unless it determines that the project is of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children to be served. Such a determination shall be made only if the State educational agency finds that:

(1) The educational objectives of the project are adequately related to one or more of the special educational needs of the participating children as identified in accordance with § 116a.21;

(2) The resources to be used in the project and the plans for their use are consistent with and show reasonable promise of meeting the objectives of the project;

(3) The evaluation plans comply with § 116.43 and are adequate for measuring the attainment of the objectives described in subparagraph (a)(1) of this section;

(4) The expenditures for the project (as set forth in the budget) are:

(i) At least $2500 or a lesser amount as may be set by the State educational agency, in accordance with section 141(a)(1)(B) of Title I, upon its determination that it would be impracticable (for reasons such as distance or difficulty of travel) for the applicant to join effectively with other local educational agencies for the purpose of meeting that dollar requirement;

(ii) Not imprudent, extravagant, excessive, or wasteful; and

(iii) Proposed for use solely to meet the special educational needs of educationally deprived children identified in accordance with § 116a.21;

(5) The project is concentrated on a sufficiently limited number of services for a sufficiently limited number of educationally deprived children, identified in accordance with § 116a.21, to show reasonable promise of meeting the educational objectives identified in subparagraph (a)(1) of this section;

(6) The project has not been designed to meet, nor will it have the effect of meeting, the general needs of schools or of the student body at large in a school or of a specified grade in a school;

(7) Any services or resources provided under Title I will be offered to only those children who have been selected to participate in the project in accordance with § 116a.21, except as approved in accordance with paragraph (b)(9);

(8) If services are provided in the regular classroom or in other settings in which children other than those properly selected to participate in the project will be presented, these services will be directed to the selected children and the effectiveness of the project will not be impaired by the presence of children other than those selected to participate;

(9) If educationally deprived children residing outside the project area will participate: (i) These children will meet

the criteria other than residency for participation in the project; (ii) Their participation will not result in the exclusion of children from the project area who meet these criteria; (iii) The project will have been designed solely for the selected children from the project area; and (iv) Participation of children from outside the project area will not impair the effectiveness of the project and will not result in any extra cost; and

(10) Services are equitably provided to all children with State and local funds without regard to the availability of Title I funds in the applicant's schools for the educationally deprived children.

(20 U.S.C. 241e(a)(1), (b) and 241j)

§ 116a.23 Participation by children enrolled in private schools.

(a) *General requirement.* Each local educational agency shall provide special educational services designed to meet the special educational needs of educationally deprived children residing in its school district who are enrolled in private schools. Such educationally deprived children shall be provided genuine opportunities to participate therein consistent with the number of such educationally deprived children and the nature and extent of their educational deprivation. The special educational services shall be provided through such arrangements as dual enrollment, educational radio and television, and mobile educational services and equipment. Such opportunities shall be made available to those educationally deprived children who reside in the public school attendance area or areas designated as the project area. If it is not practicable to apply a project to children enrolled in private schools because they are enrolled in a private school located in another school district, the applicant may make arrangements for such children with the local educational agency serving such other school district, including where appropriate, the making of a joint project application.

(b) *Determination of needs, number of children, and types of services.* The needs of educationally deprived children enrolled in private schools, the number of such children who will participate in the program, and the types of special educational services to be provided for them shall be determined, after consultation with persons knowledgeable of the needs of these private school children, on a basis comparable to that used in providing for the participation in the program by educationally deprived children enrolled in public schools.

(c) *Nature and comparability of services.* If, after consultation with persons knowledgeable of the needs of private school children, the local educational agency determines that it is necessary, in order to meet the special educational needs of eligible private school children, services and activities may be provided to such children which are different from those provided to public school children. However, consistent with the principles set forth in § 116a.22 of this subpart, those services and activities must be comparable in quality, scope, and opportunity for participation to those provided to public school children with needs of equally high priority.

(d) *Design of projects.* The opportunities for participation by educationally deprived children in private schools in the program of a local educational agency under Title I shall be provided through projects of the local educational agency which furnish special educational services that meet the special educational needs of such educationally deprived children rather than the needs of such schools or the student body at large or of children within a specific grade. Provisions for serving children in private schools shall not include the financing of the existing level of instruction in the private schools. The application shall contain sufficient information to enable the State educational agency to determine that, with respect to children enrolled in private schools, the requirements of § 116a.21 have been satisfied, and such application shall state the number of such children who were found to be educationally deprived according to specific criteria, the number of such children who are expected to participate in each of the services under Title I and the degree and manner of their expected participation.

(e) *Avoidance of separate classes.* Any project involving the participation at the same site of children enrolled in private schools and children enrolled in public schools shall include such provisions as are necessary to avoid classes which are separated by school enrollment or religious affiliation of the children.

(f) *Limitations on availability of services in other than public school facilities.* Public school personnel may be made available on other than public school facilities only to the extent necessary to provide special services (such as therapeutic, remedial, or welfare services, broadened health services, school breakfasts for poor children, and guidance and counseling services) for those educationally deprived children for whose needs such services were designed and only when such services are not normally provided by the private schools. The application for a project including such special services shall provide satisfactory assurance that the applicant will maintain continuing administrative direction and control over those services and, in accordance with § 116.36, over the use of equipment required to provide such services. Provisions for special educational services for educationally deprived children enrolled in private schools shall not include the paying of salaries for teachers or other employees of private schools, except for services performed outside their regular hours of duty and under public supervision and control, nor shall they include the construction of private school facilities.

(g) *Other requirements.* Special educational services and arrangements provided under this section shall meet the requirements of clauses (A) and (B) of section 141(a)(1), section 141(a)(2), and clauses (A) and (B) of section 141(a)(3) of Title I.

(20 U.S.C. 241e(a)(1), (2), and (3) 241e-1(a); *Wheeler* v. *Barrera*, 417 U.S. 402 (1974))

§ 116a.23-1 Waiver of requirements for participation by children enrolled in private schools.

(a) *Approval of applications.* The State educational agency shall not approve an application for a grant for a program that does not meet the requirements of § 116a.23 of this subpart unless and until a final determination to waive such requirements has been made by the Commissioner pursuant to section 141A of Title I and satisfactory arrangements have been made for the provision of such services by the Commissioner under this section. The State educational agency shall notify the Commissioner that an application has been disapproved because of the local educational agency's failure to meet the requirements of § 116a.23 and set forth the reasons and supporting evidence for such disapproval.

(b) *Waivers in cases of legal prohibition.* If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by sections 141(a)(2) and 141A(a) of Title I and § 116a.23 of this subpart, the Commissioner will waive such requirement and the provisions of section 141(a)(2) and will arrange for the provision of services to such children through arrangements which shall be subject to the requirements of section 141A(a) of Title I. For the purpose of determining whether a local educational agency is prohibited by law from providing for participation of educationally deprived children in private schools, the Commissioner may require the State educational agency to furnish an opinion of the Attorney General of the State with regard to the status of State law regarding such participation.

(c) *Waivers in cases of substantial noncompliance.* (1) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation, on an equitable basis, of educationally deprived children enrolled in private elementary and secondary schools (as set forth in an approved application) as required by section 141(a)(2) and 141A(a) of Title I and § 116a.23 of this subpart, he shall make arrangements for the provision of services to such children, which shall be subject to the requirements of section 141A(a) of Title I, upon which determination the provisions of such section and section 141(a)(2) of Title I shall be waived.

(2) Where a local educational agency, pursuant to an application approved under this Part, undertakes to provide for the participation, on an equitable basis, of children enrolled in private elementary and secondary schools (as required by Title I and § 116a.23 of this Part) and such agency thereafter reduces the size, scope, or quality of the services provided such children prior to

(i) a final determination by the Commissioner to waive such requirement and (ii) the implementation of satisfactory arrangements for the provision of such services by the Commissioner under this section, no obligations or expenditures incurred by such agency may be recognized as allowable under Title I for the period during which such reduction of services takes place.

(d) *Cost of arrangements by Commissioner.* When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under Title I. In the case of arrangements under this section, such allocation shall be the allocation of the local educational agency affected, and at the discretion of the Commissioner, the proportionate amount of State administrative funds, except that no State may receive less than $150.000 as provided by § 116.4.

(e) *Notice, opportunity for hearing, judicial review.* (1) The Commissioner shall not take any final action under this section until he has afforded the State educational agency and local educational agency affected by such action at least sixty days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

(2) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under paragraph (e)(1) of this section, it may, within sixty days after notice of such action, file, with the United States Court of Appeals for the circuit in which such State is located, a petition for review of that action in accordance with the provisions in section 141A(b)(4) of Title I.

(20 U.S.C. 241e–1)

§ 116a.24 Bonus pay for teachers.

(a) *General.* An application for a grant for a project under Title I may include, as a part of the applicant's program, provision for the payment of bonuses to teachers in a limited number of schools serving attendance areas with exceptionally high concentrations of children from low-income families.

(b) *Definition.* For the purposes of this section, the term "teacher" means a person holding a teaching certificate in the State who has a regular instructional assignment and is taken into account in the computation of pupil-teacher ratios in the State.

(c) *Eligibility of teachers; amount of bonuses.* The eligibility of teachers for such bonuses may be made subject to such conditions, including the completion of prescribed courses of special training, as may be set by the local educational agency with the approval of the State educational agency. Such bonuses must be reasonable in amount but must be deemed (by the approving State educational agency) to be sufficient to attract to, or retain at, such schools the teachers best qualified to help meet the special educational needs of the educationally deprived children to be served by the program of the local educational agency.

(d) *Application.* (1) A project application that includes provision for the payment of teacher bonuses must demonstrate that the applicant's regular salary schedule has not attracted or has not retained sufficient numbers of teachers of high caliber in the area in which the teacher bonus provision is to be made applicable. It must also demonstrate how the local educational agency plans to recruit, hire, provide inservice training to, and evaluate all teachers who will receive bonuses, and how such teachers will serve as an integral part of the Title I program.

(2) The continuation of the payment of teacher bonuses by a local educational agency beyond a two-year period shall be conditioned upon a demonstration in project applications for subsequent years that bonus payments in the school district have in fact been effective in attracting and retaining teachers of high caliber and that such teachers have significantly contributed to improving the performance of educationally deprived children. For this purpose, the State educational agency must assume a special responsibility for monitoring and evaluating teacher bonus components of programs in the light of specific measurable goals and must collect and maintain data on the extent of the use and the effectiveness of such teacher bonus components of programs under Title I.

(20 U.S.C. 241e(a)(1))

§ 116a.25 Parent advisory councils.

(a) *General requirements.* Each local educational agency shall demonstrate in each annual application submitted under this subpart that it has established an advisory council (hereinafter "district advisory council") for the entire area to be served under Title I and, except as provided in paragraph (f) of this section, an advisory council for each school of such agency served by the program or project set forth in the application (hereinafter "school advisory council"). Such agency may establish intermediate councils for groups of schools within its school district. The purpose of the advisory councils is to encourage parental involvement at the local level as an important means of increasing the effectiveness of programs under Title I. The application of such agency shall demonstrate that the district advisory council, each intermediate council, and each school advisory council, in accordance with the provisions of this section:

(1)(i) Has, as a majority of its members, (A) parents of children (including parents of private school children) who are currently participating in the program or (B) parents of children who will participate in the projects proposed for the following fiscal year, if satisfactory data is available to identify such children.

(2)(i) In the case of a districtwide or intermediate advisory council, is composed of members selected by the parents in the school attendance areas designated as project areas, and (ii) in the case of a school advisory council, is composed of members selected by the parents in the school attendance area of such council;

(3) Has been given responsibility for advising the local educational agency in the planning, implementation, and evaluation of, such program or project;

(4) Is provided by such agency with access to appropriate information concerning such program or project;

(5) Operates under procedures which are adequate to insure timely and proper performance of its functions, including procedures for convening meetings, and for the recording and maintenance of minutes; and

(6) Has been provided with procedures for coordinating its functions and its recommendations to the local educational agency with those of other councils in the district.

(b) *Participation of parents in selection of councils.* All of the parents of children eligible to attend a public school serving a project area, including parents of children living in such area and enrolled in private schools, shall be eligible to participate in the selection of members of the appropriate district and intermediate councils and the school advisory council of that school.

(c) *Identification of parents eligible for membership.* In consultation with the district advisory council, the local educational agency shall establish appropriate procedures whereby parents of children who are currently participating in a project or who will be participating in the proposed project be identified so that they may be considered for membership on a school, intermediate or district advisory council. In no case may parents be identified, for the purposes of this subsection, unless they have first given their consent to be so identified.

(d) *Procedure for selection.* The local educational agency, after consultation with the district advisory council, shall establish appropriate procedures for the nomination and selection of parents eligible under paragraph (c) and other persons for service on district, intermediate and school advisory councils. Such procedures shall include provision for affording timely and adequate notice to the parents and the general public in the agency's school district (or in the appropriate school attendance area in the case of a school council) of the time, place, and method whereby such selection would be made. The local educational agency shall take appropriate measures, such as the publication of the notice in a language other than English, to insure that adequate notice is provided for parents in an area where the dominant language is other than English. Upon the selection of members of the council, the names of all members of such council shall be made available to the public through appropriate notices and continue to be available upon request. Members of an advisory council shall be residents of the school district, and members of a school council shall reside in the attendance area of that school.

(e) *Membership of districtwide or intermediate councils.* The local educational agency may provide that the membership of its districtwide or intermedi-

ate advisory councils will be composed solely of members of the school councils, each member of which is elected by his or her school council.

(f) *Local educational agencies with one school or less than 1,000 students in all project area schools.*

If a local educational agency (1) has less than 1,000 students enrolled in its project area schools, or (2) has only one project area school, it may decide, with the approval of the State educational agency to have its district advisory council also serve as its school councils. In any such case the district council shall consist of at least one advisory council member representative of each project area school.

(g) *Involvement of councils.* Each local educational agency shall include in its application sufficient information to enable the State educational agency to make the following determinations:

(1) That each council member has been furnished copies of Title I of the Act, the Federal regulations, guidelines and criteria issued pursuant thereto, State Title I regulations and guidelines,

(2) That all council members will receive appropriate training materials and orientation which will assist them in carrying out their functions under this section; and

(3) That each council will be provided with the local educational agency's current application, other information and documents (such as prior applications in accordance with the availability of information to the public pursuant to § 116.45 for Title I projects and evaluations thereof) as may be needed for the effective involvement of each such council in the planning, implementation, operation, and evaluation of projects under Title I;

(4) That each council has had an adequate opportunity to consider the information available concerning the special educational needs of the educationally deprived children residing in the project area (or areas), and the various programs available to meet those needs, and to make recommendations concerning those needs which should be addressed through the Title I program and similar programs; and

(5) That all parents of children to be served have had an opportunity to present their views concerning the application to the appropriate school council, and that each council has had an opportunity to submit its comments to the local educational agency which shall consider such comments in determining whether or not the application shall be approved and submitted to the State educational agency.

(h) *Additional rules and procedures.* The State educational agency may establish such additional rules and procedures, not inconsistent with the provisions of this section, as may be reasonably necessary to insure the involvement of parents and the proper organization and functioning of parent advisory councils.

(20 U.S.C. 241e(a)(8), (14), 1231d H. Rept. 93-805, p. 18-19 (1974))

§ 116a.26 Comparability of services.

(a) *State agency action regarding applications.* A State educational agency shall not approve an application of a local educational agency for a grant under section 141(a) of Title I, or make payments of Title I funds under a previously approved application of such agency, unless that local educational agency has demonstrated, in accordance with paragraph (e) of this section, that services provided with State and local funds derived from public sources in Title I project areas are at least comparable to the services being provided with such State and local funds in schools serving attendance areas not designated as Title I project areas. Such approval shall not be given unless the local educational agency also provides the assurances and the additional information required by paragraph (h) of this section with respect to the maintenance of comparability. For the purpose of this section, State and local funds include those funds used in the determination of fiscal effort in accordance with § 116.19.

(b) *Reports by local educational agencies.* The State educational agency shall require each local educational agency (except as provided in paragraph (1) of this section) to submit a report in such form as the Commissioner will prescribe, containing the information required by the State educational agency to make the determinations specified in paragraph (e) of this section. Such report shall include the following data for each public school serving a project area (in whole or in part) unless such school is exempted by paragraph (k) of this section, and on a combined basis, for all other schools of corresponding grade levels (as grouped in accordance with paragraph (i) of this section):

(1) The number of children enrolled. For this purpose, children enrolled in kindergarten may be counted on a full-time equivalency basis. Additionally, if the governing body of a State or a local educational agency has mandated in law or local ordinance that State and local funds shall be expended at different rates for children in certain educational categories, age groupings, or grade levels, then the number of such children enrolled for the purpose of the local educational agency's comparability report may, with the approval of the State educational agency, be derived by multiplying the actual number of children enrolled by the rate specified for each such category, age grouping or grade level.

(2) The full-time equivalent number of certified and noncertified instructional staff members, who are paid with State or local funds regularly assigned to such public school or schools;

(3) The total amount of State and local funds being expended on an annual basis for salaries for such instructional staff members less the amount of such salaries based on length of service (longevity);

(4) The number of enrolled children as reported under subparagraph (1) of this paragraph per instructional staff member as reported under subparagraph (2) of this paragraph;

(5) The amount expended per enrolled child as reported under subparagraph (1) of this paragraph for salaries for instructional staff as reported under subparagraph (3) of this paragraph; and

(6) The number of children and of members of instructional staff and expenditures for such staff, if any, that were excluded from determinations in accordance with paragraph (j).

The term "instructional staff members" as used in this section means staff members who render direct and personal services which are in the nature of teaching or the improvement of the teaching-learning situation. The term includes teachers, principals, consultants, or supervisors of instruction, librarians, and guidance and psychological personnel; it also includes aides or other paraprofessional personnel including clerical personnel employed to assist such instructional staff members in providing such services.

(c) *Date as of which data must be collected.* The data required by paragraph (b) of this section shall be as of a date not later than November 1 of each fiscal year as specified by the State educational agency. To the extent practical such date shall be the date nearest October 1 as of which similar data, such as enrollment data, are required for reports to the State educational agency. The local educational agency with the approval of the State educational agency may, however, submit data based on averages for a definite regular school reporting period which includes the date specified by the State educational agency.

(d) *Date for filing report.* The report required by paragraph (b) of this section shall be filed with the State educational agency no later than December 1 of each fiscal year.

(e) *Determination of comparability.* The services being provided by the local educational agency with State and local funds in a Title I project area shall be deemed to be comparable to the services being provided with such funds in areas not being served under Title I, if the State educational agency determines that, for schools serving corresponding grade levels:

(1) The number of children enrolled per instructional staff member, reported in accordance with paragraph (b)(4) of this section, for each public school serving a Title I project area is not more than 105 percent of the average number of children per instructional staff member in all other public schools in the applicant's district; and

(2) The annual expenditure per child, determined in accordance with paragraph (b)(5) of this section, in each public school serving a Title I project area is not less than 95 percent of such expenditure per child in all other public schools in the applicant's district.

(f) *Action by State agency in cases of non-comparability.* (1) If any school serving a Title I project area is determined not to be comparable under paragraph (e) of this section, as of the date

specified in accordance with paragraph (c) of this section, and the local educational agency does not submit a revised comparability report by December 1 of that year showing that comparability in accordance with this paragraph has been achieved, the State educational agency shall as of that December 1 suspend its approval of the project until the date such a report is submitted to that agency, provided the date of such submission is not later than the following March 31. Where such a report is filed by March 31, such suspension shall be lifted as of the date on which comparability has been achieved by such agency as shown in such report. Each revised report shall include all data required by paragraph (b), recorded as of a specific date on which the reallocation of resources has taken effect.

(2) If such a report is not submitted to the State educational agency by March 31, that agency, after notifying the applicant agency and providing it an opportunity for a hearing (in accordance with the provisions of § 116.6(b) of Part 116), shall finally disapprove the project and reallocate all unobligated funds in the applicant's allocation as of December 1 to other complying local educational agencies in the State in accordance with the provisions of § 116a.11 of this part.

(3) If the State educational agency finds that, as of a date after December 1, a local educational agency has failed to maintain comparability in accordance with paragraph (e) of this section and has not taken prompt action to correct that lack of comparability, the State educational agency shall, as of the date of such failure to maintain comparability, suspend its approval of the project until the date as of which such local educational agency (by means of a revised comparability report) demonstrates that comparability has been achieved. If such local educational agency fails to demonstrate compliance by March 31, the State educational agency shall revoke its approval of the project (subject to notice and opportunity for hearing) as of the date the local educational agency was found not to be in compliance and shall reallocate the balance of the unobligated funds to other complying local educational agencies in the State.

(4) No Title I funds may be used to pay for obligations incurred by a local educational agency during a period of suspension under this section.

(g) *Special reports regarding migratory children.* (1) For the purpose of this section, the Commissioner may designate those local educational agencies which enroll substantial numbers of migratory children of migratory agricultural workers and migratory fishermen from which a State educational agency shall secure special reports. Each such report shall be in the form prescribed in paragraph (b) of this section and the data provided shall be as of the date prescribed by the Commissioner.

(2) Such date will be selected on the basis of the best available information indicating when the highest concentration of migratory children of migratory agricultural workers or migratory fishermen in the school district of the local educational agency is most likely to occur. The Commissioner will also designate the date such a special report shall be submitted to the State educational agency and by that agency to him.

(3) The State educational agency shall determine on the basis of such special report whether the local educational agency is providing comparable services in project areas in accordance with paragraph (e) of this section and shall take such action as may be required by paragraph (f) of this section.

(h) *Assurances and data filed by local educational agencies.* On or before July 1 of each year each local educational agency shall file with the State educational agency:

(1) An assurance that the comparability of services previously demonstrated with respect to Title I project areas in accordance with paragraph (e) of this section will be maintained in all such areas, including areas serving migratory children of migratory agricultural workers or migratory fishermen, that will be designated as Title I project areas for the next fiscal year;

(2) Data on schools serving attendance areas, if any, that will be designated for Title I projects for the next fiscal year but were not designated for such projects in the preceding fiscal year. Such data shall show either that such schools would have been comparable during the preceding fiscal year if those areas had been designated for projects or will, as the result of specific action by the local educational agency, be comparable during the next fiscal year; and

(3) A statement of the specific policies and procedures adopted by the local educational agency to assure that textbooks, library resources, and other instructional materials and supplies are provided for each school serving a Title I project area on a basis that is comparable to that for non-project areas.

(i) *Grouping of schools.* (1) For the purposes of this section, a local educational agency shall group its schools by corresponding grade levels not to exceed three such groups (generally designated as elementary, intermediate or junior high school, and high school or secondary) for all the schools in the school district of such agency, except that local educational agencies providing education at seven or fewer grade levels above kindergarten shall be limited to one group, and those agencies providing education only at eight or nine grade levels above kindergarten shall be limited to two groups. In the case of agencies providing education at any level from grades six through twelve but only at those levels, the number of such groups shall be limited to two if the number of such grade levels is five or six and to one group if the number of such grade levels is four or less.

(2) A school serving grades in two or three such groups shall be included in that group with which it has the greatest number of grades in common. Where the number of grades in common are equal between two or more groups, the school shall be included in the lower grade division. For example, a local educational agency might have the following grade span organization: K–6 (elementary), 7–9 (junior high), and 10–12 (senior high). In addition, the local educational agency might have an intermediate school serving grades 5–8. Since this intermediate school has two grades in common with the elementary division (grades 5 and 6) and two grades in common with the junior high division (grades 7 and 8), it would be included in the lower grade division (elementary) for determining comparability.

(3) Local educational agencies having schools serving eight or more grades above kindergarten may consider such schools to be a separate group in addition to the number of groups determined under subparagraph (1).

(4) If, for a particular grade span, one school has an enrollment that is at least two times that of another, the local educational agency may divide such schools in that grade span into two groups; one for the schools with the larger enrollments and one for the schools with the smaller enrollments, except as provided in the following sentence. Local educational agencies having schools with enrollments of 100 or less shall exclude such schools in making a determination of the size of the smallest school.

(20 U.S.C. 241e(a)(3))

(j) *Exclusions from determinations in certain cases.* (1) In cases where handicapped children (as defined in § 121.2 of this chapter) or children with specific learning disabilities (as defined in § 121.2 of this chapter) are enrolled full time in special education classes, and where children of limited English speaking ability are enrolled full time in special programs of bilingual education, all those children, the teachers and other instructional staff members who serve them, and instructional expenditures for such staff may be excluded by the local educational agency (at its option) in determining the comparability of services provided in project areas.

(2) Subject to the provisions of paragraph (j)(3) of this section, a local educational agency may (at its option) exclude from determinations under this section, expenditures of State and local funds for (i) programs of bilingual education for children of limited English-speaking ability or (ii) special programs for handicapped children where such children of limited English-speaking ability or such handicapped children do not participate in such programs on a full time basis and may also exclude the staff employed with such State and local funds. If expenditures for staff and numbers of staff are excluded in accordance with the preceding sentence, then the full time equivalent number of children served under such programs may also be excluded.

(3) In order to make the exclusions as provided for in paragraph (j)(1) and

(j)(2) of this section, a local educational agency must demonstrate, to the satisfaction of the State educational agency, that the services provided with such State and local funds to such children of limited English-speaking ability or handicapped children who reside in Title I project areas are comparable to such services provided to similarly disadvantaged children in nonproject areas.

(4) For the purposes of this section, the term "program of bilingual education" means a program of instruction designed for children of limited English speaking ability.

(5) State and local funds expended for State and local programs similar to programs provided under Title I for educationally deprived children and the number of full time equivalent instructional staff members employed through the use of such funds may, at the option of the local educational agency, be excluded from determinations under this section. For the purpose of this section a State or locally funded program for educationally deprived children shall be considered to be similar to programs under Title I if (i) the participating children are "educationally deprived" children as defined in § 116.2 of Part 116; (ii) the program is based on performance objectives related to educational achievement and provides supplementary services designed to meet the special educational needs of those particular children; (iii) the program is evaluated in a manner consistent with those performance objectives, and (iv) for purposes of determining compliance with clauses (i)–(iii) the local educational agency is separately accountable to the State educational agency for any State or local funds expended for such program.

(20 U.S.C. 241e(a) (1), and (3), 244(17); House Rept. 93-805, p. 18 (1974), Senate Rept. No. 93-1026, p. 147 (1974))

(k) *Schools with 100 or less children.* A school with an enrollment of 100 children or less (as of the date or dates the data required by paragraph (b) of this section are collected) shall not be included for purposes of this section, provided that, if the local educational agency operates schools of such size and corresponding grade levels both for areas to be served and areas not to be served under Title I, such agency files with the State educational agency a statement of the policies it will follow concerning the allocations of staff to such schools and the State educational agency finds that such policies are consistent with the objectives of this section.

(l) *Inapplicability to certain agencies.* The requirements of this section are not applicable to a local educational agency which has shown the State educational agency that it is operating only one school serving children at the grade levels at which services under Title I are to be provided or which has designated the whole of the school district as a project area in accordance with § 116a.20(d).

(m) *Maintenance of records.* (1) Local educational agencies required to report under this section shall maintain, by individual schools

(i) Appropriate resource records, including records of children's enrollment;

(ii) Worksheets showing the total number of full-time instructional staff members, the full-time equivalent number of part-time instructional staff members and the total amount of State and local funds being expended for their salaries (including the prorated portions of salaries for part-time staff) less the total amount of such salaries based solely on longevity;

(iii) Appropriate records documenting the exclusions made pursuant to paragraph (j) of this section; and

(2) Such records and worksheets, demonstrating the maintenance of comparability for the entire school year, shall be filed, indexed, and maintained in such a manner that they may be readily reviewed by appropriate local, State, and Federal authorities and shall be retained in accordance with applicable record retention requirements. All such records and worksheets shall be available to the public in accordance with the provisions of § 116.35.

(n) *State agency submissions.* (1) By January 1 of each year, the State educational agency shall submit to the Commissioner in such form as he will prescribe, a copy of the comparability report for each local educational agency in the State which the Commissioner has determined to be in a national sample of such agencies for that year.

(2) The State educational agency shall also submit to the Commissioner by January 1 of each year, a report identifying each local educational agency that failed to meet the comparability requirement of paragraph (e) of this section on the date specified under paragraph (d) or (g) of this section and indicating for each such agency either (i) that such agency has allocated or reallocated sufficient additional resources to Title I project areas so as to come into compliance with such requirements and has filed a revised comparability report reflecting such compliance or (ii) that the State educational agency is withholding the payment of Title I funds to the noncomplying local educational agency.

(3) A copy of each revised comparability report in such form as the Commissioner will prescribe shall be included with the State educational agency's report to be submitted by January 1.

(4) Not later than April 30, the State educational agency shall report to the Commissioner whether any noncomplying local educational agencies have come into compliance, and if so, the State educational agency shall include revised comparability reports for such local educational agencies reflecting such compliance.

(o) *Local educational agencies which receive substantial Federal funds.* A local educational agency receiving at least 95 percent of its funds for education from Federal sources shall not be required to meet the provisions of this section.

(20 U.S.C. 241e(a)(3))

[FR Doc.76-28162 Filed 9-27-76;8:45 am]

federal register

TUESDAY, SEPTEMBER 28, 1976



PART V:

FEDERAL ENERGY ADMINISTRATION

■

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for July 1976

FEDERAL ENERGY ADMINISTRATION

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for July 1976

In accordance with the provisions of 10 CFR 211.67 relating to FEA's domestic crude oil allocation program the monthly notice specified in § 211.67(i) is hereby published.

Based on reports submitted to FEA by refiners and other firms as to crude oil receipts, crude oil runs to stills and eligible product imports for July 1976, imported naphtha utilized as a petrochemical feedstock in Puerto Rico, application of the entitlement adjustment for residual fuel oil production for sale in the East Coast market provided in § 211.67(d)(4), and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for July 1976 is calculated to be .314001.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of July 1976, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .167380 of a barrel of deemed old oil.

The issuance of entitlements for the month of July 1976 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner and other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), FEA hereby fixes the price at which entitlements shall be sold and purchased for the month of July 1976 at $7.80, which is the exact differential as reported for the month of July between the weighted average per barrel costs to refiners of old oil and of imported crude oil, less the sum of 21 cents.

In accordance with 10 CFR 211.67(d), each refiner that has been issued fewer entitlements for the month of July 1976 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of July 1976 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of July 1976 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through June 1976 pursuant to 10 CFR 211.67(j)(1).

Pursuant to § 211.67(j)(2), corrections for reporting errors for months prior to September 1975 are reflected commencing with this entitlement notice for July 1976 and will be reflected in entitlement notices through the notice for February 1977. The proposed total dollar amounts of these latter corrections were initially set forth in the special correction notice issued by FEA on July 22, 1976 (41 FR 31793, July 29, 1976). Based on firms' corrected data provided to FEA by August 13, 1976, the total dollar amounts of the special corrections are set forth in the revised special correction notice issued concurrently herewith. The dollar amounts shown on this revised notice have been divided into eight substantially equal installments for reflection in each firm's entitlement position for each of the months July 1976 through February 1977, based on the particular month's entitlement price. The entitlements required to be purchased or sold for July 1976 under these procedures are shown in a separate column in the listing.

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by FEA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separate column additional entitlements issued to refiners pursuant to relief granted by FEA's Office of Exceptions and Appeals.

For purposes of the adjustments to refiners' crude run volumes under § 211.67(d)(4), total production of residual fuel oil for sale in the East Coast market (in excess of the first 5,000 barrels per day thereof for each refiner reporting such production) was 9,455,383 barrels for July 1976. For that month, imports of residual fuel oil eligible for entitlement issuances totaled 34,413,363 barrels.

The total number of entitlements required to be purchased and sold under this notice is 23,111,311.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for July 1976 must be made by September 30, 1976.

On or prior to October 10, 1976, each firm which is required to purchase or sell entitlements for the month of July 1976 shall file with FEA the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of July. FEA has mailed the monthly transaction report forms for the month of July to reporting firms. FEA requests that firms which have been unable to locate other firms for required entitlement transactions by September 30, 1976 contact FEA at 202–254–6296 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to September 30, 1976, FEA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before October 28, 1976.

Issued in Washington, D.C., on September 21, 1976.

MICHAEL F. BUTLER,
General Counsel.

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	********** REQUIRED TO BUY	REQUIRED TO SELL
A-JOHNSON	0	96,491	0	0	-6,063	0	96,491
AGWAY	0	-23	0	0	-23	23	0
ALLIED	35,434	76,997	0	0	-67	0	41,563
AMER-PETROFINA	1,519,046	1,558,107	0	0	62,049	0	39,061
AMERADA-HESS	1,296,928	4,445,695	0	195,223	-30,114	0	3,148,767
AMOCO	11,921,619	10,655,146	0	0	-16,983	1,266,473	0
APCO	596,262	571,930	0	0	-1,372	24,332	0
APEX	0	-8	0	0	-8	8	0
ARCO	6,433,344	6,144,990	0	0	-142,952	288,354	0
ARIZONA	26,806	24,480	11,944	0	347	2,326	0
ASAMERA	125,983	217,483	0	0	264	0	91,500
ASHLAND	1,839,433	3,541,786	0	0	-23,668	0	1,702,353
ASIATIC	0	333,497	0	336,405	-2,908	0	333,497
ATLANTIC-CEMENT	0	197	0	0	197	0	197
AUGSBURY	0	-4	0	0	-4	4	0
BAYOU	43,007	44,460	0	0	58	0	1,453
BEACON	294,723	289,482	108,125	0	-5,241	5,241	0
BELCHER	0	193,027	0	193,505	-478	0	193,027
BLUE-RIDGE	0	12,712	0	13,022	-310	0	12,712
C&H	22	69	0	0	-12	0	47
CALUMET	8,287	31,265	0	0	-213	0	22,978
CANAL	74,109	65,875	0	0	-1,359	8,234	0
CARIBOU	107,100	115,543	0	0	104	0	8,443
CASTLE	0	21,174	0	21,439	-265	0	21,174
CENTRAL	0	-189	0	0	-189	189	0
CF-PETROLEUM	0	1,077,265	0	0	0	0	1,077,265
CHAMPLIN	2,131,416	1,335,179	0	0	12,851	796,237	0
CHARTER	921,948	746,862	28,926	0	12,416	175,086	0
CIRILLO	0	20,253	0	21,288	-1,035	0	20,253
CITGO	3,994,442	2,003,948	0	0	-4,221	1,990,494	0
CLAIBORNE	6,921	32,411	0	0	17,803	0	25,490
CLARK	372,838	1,083,729	0	0	-2,419	0	710,891
COASTAL	599,761	1,516,321	0	0	26,898	0	916,560
COLONIAL	0	66,171	0	66,551	-380	0	66,171

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	********** REQUIRED TO BUY	REQUIRED TO SELL
CON-ED	0	-2,210	0	0	-2,210	2,210	0
CON-REF	0	55	0	0	55	0	55
CONOCO	3,836,349	3,577,299	0	36,158	8,624	259,050	0
CONSUMERS-POWER	0	-451	0	0	-451	451	0
CORCO	0	349,815	360,464	0	-3,903	0	349,815
CRA-FARMLAND	547,684	689,068	0	0	-2,417	0	141,384
CROSS	24,822	70,749	0	0	2,967	0	45,927
CROWN	402,631	824,474	0	0	-2,146	0	421,843
CRYSTAL-OIL	224,282	191,192	0	0	-12,439	33,090	0
CRYSTAL-REF	2,542	46,955	0	0	-542	0	44,413
DEEPWATER	0	-91	0	0	-91	91	0
DELTA	412,914	440,315	0	0	809	0	31,401
DETROIT-ED	0	742	0	0	742	0	742
DIAMOND	651,720	553,865	0	0	4,144	97,855	0
DORCHESTER	8,328	9,690	0	0	-56	0	1,362
DOW	75,696	176,400	0	0	135	0	100,704
E-SEABOARD	0	136,727	0	137,716	-989	0	136,727
EDDY	39,272	44,377	0	0	68	0	5,105
EDGINGTON-OIL	516,444	415,910	131,149	0	532	100,534	0
EDGINGTON-OXN	7,159	11,639	0	0	-5	0	4,480
ELM	0	-325	0	0	-325	325	0
ENTERPRISE	0	-38	0	0	-38	38	0
EVANGELINE	36,607	40,550	0	0	51	0	3,943
EXXON	16,192,429	13,233,018	0	733,959	-4,056	2,959,411	0
F-FLETCHER	0	1	0	0	1	0	1
FAMARISS	272,804	401,258	0	0	-41	0	128,454
FARMERS-UN	191,452	466,457	0	0	-227	0	275,005
FLETCHER	6,788	199,903	0	0	13,478	0	193,115
FLINT	13,434	11,851	0	0	-7	1,583	0
FLORIDA-POWER	0	678	0	0	678	0	678
GARY	29,416	98,698	0	0	-71	0	69,282
GEN-PORTLAND	0	-16	0	0	-16	16	0
GETTY	786,506	859,343	0	0	-4,351	0	72,837
GIANT	11,937	165,036	0	0	-185	0	153,099

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	********** REQUIRED TO BUY	REQUIRED TO SELL
GIBBS	0	-374	0	0	-374	374	0
GLACIER-PARK	117,939	50,308	0	0	0	67,631	0
GLADIEUX	95,772	168,335	0	0	253	0	72,563
GOLDEN-EAGLE	746	163,908	0	0	-2,623	0	163,162
GOLDEN-EAGLE-NY	0	2,181	0	0	2,181	0	2,181
GOOD-HOPE	234,027	233,582	193,702	0	-445	445	0
GREAT-NORTHERN	0	-126	0	0	-126	126	0
GUAM	0	329,486	0	0	-2,258	0	329,486
GULF	11,122,966	8,431,467	0	27,719	-12,478	2,691,499	0
GULF-STS	219,659	142,907	0	0	72	76,752	0
HIRI	0	640,406	0	0	2,035	0	640,406
HOWARD	0	75,640	0	77,109	-1,469	0	75,640
HOWELL	835,390	396,600	0	0	1,160	438,790	0
HUNT	389,363	361,918	0	0	-506	27,445	0
HUSKY	413,183	509,836	0	0	448	0	96,653
INDIANA-FARM	85,055	271,349	0	0	-469	0	186,294
INGER-OIL	176	570	0	0	0	0	394
INTL-PAPER	0	74	0	0	74	0	74
IRVING	0	4,549	0	4,611	-62	0	4,549
J&W	38,455	25,688	-5,128	0	-1,326	12,767	0
K-H-WHITE	0	-35	0	0	-35	35	0
KENTUCKY	2,931	5,891	0	0	-29	0	2,960
KERN	351,038	293,969	57,896	0	0	57,069	0
KERR-MCGEE	1,757,066	1,586,426	0	0	27,791	170,640	0
KOCH	469,407	1,044,207	0	0	-2,194	0	574,800
LA-WATER	0	7,379	0	0	7,379	0	7,379
LAGLORIA	484,906	282,606	0	0	-74,159	202,300	0
LAKESIDE	4,171	17,857	0	0	-242	0	13,686
LAKETON	206,315	199,881	78,293	0	-6,434	6,434	0
LITTLE-AMER	1,181,385	1,064,758	476,411	0	326	116,627	0
LOUISIANA-LAND	136,120	387,446	0	0	0	0	251,326
MACMILLAN	95,511	195,811	0	0	-3,531	0	100,300
MARATHON	3,897,430	2,938,982	0	0	-5,708	958,448	0
MARION	107,536	208,930	0	0	-801	0	101,394

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	********** REQUIRED TO BUY	REQUIRED TO SELL
MID-AMER	15,766	51,442	0	0	-325	0	35,676
MID-TEX	0	74,524	0	0	177	0	74,524
MIDLAND	88,504	246,424	0	0	-117	0	157,920
MOBIL	9,309,340	7,783,497	0	63,772	-201,978	1,525,843	0
MOHAWK	465,161	466,016	119,500	0	855	0	855
MONSANTO	406,173	383,169	0	0	-635	23,004	0
MORRISON	33,633	133,990	0	0	2	0	100,357
MOUNTAINEER	4,557	5,351	0	0	4	0	794
MURPHY	913,565	975,407	0	0	211	0	61,842
N-AMER-PETRO	15,838	142,349	0	0	-2,133	0	126,511
NARRAGANSETT	0	-116	0	0	-116	116	0
NATL-COOP	416,648	578,343	0	0	372	0	161,695
NAVAJO	407,857	426,127	54,501	0	-1,840	0	18,270
NEW-ENGL-PETRO	0	508,996	0	512,718	-3,722	0	508,996
NEW-ENGL-POWER	0	-72	0	0	-72	72	0
NEWHALL	199,633	142,285	0	0	95	57,348	0
NEWMAN	0	-64	0	0	-64	64	0
NORCO	0	62	0	0	62	0	62
NORTHEAST-PETRO	0	30,832	0	31,752	-920	0	30,832
NORTHLAND	20,001	167,525	0	0	-51	0	147,524
NORTHVILLE	0	-786	0	0	-786	786	0
OIL-SHALE	2,309,982	1,603,299	0	0	-2,568	706,683	0
OKC	214,124	218,513	-77,016	0	2,017	0	4,389
ORANGE&ROCKLAND	0	65	0	0	65	0	65
PASCO	0	4,743	0	0	4,743	0	4,743
PATCHOGUE	0	-295	0	0	-295	295	0
PENNZOIL	615,348	511,318	0	0	-454	104,030	0
PEPCO	0	-974	0	0	-974	974	0
PETRO-HEAT-CT	0	-587	0	0	-587	587	0
PETRO-HEAT-PA	0	-330	0	0	-330	330	0
PG&E	0	-477	0	0	-477	477	0
PHILLIPS	3,410,787	3,248,849	0	0	101,670	161,938	0
PHILLIPS-PR	0	204,746	204,746	0	0	0	204,746
PIONEER	62,469	167,019	0	0	-4	0	104,550

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	********** REQUIRED TO BUY	REQUIRED TO SELL
PITTSTON	0	49,775	0	50,897	-1,122	0	49,775
PLACID	259,028	413,372	0	0	-1,312	0	154,344
PLATEAU	141,938	170,089	0	0	-486	0	28,151
POWERINE	318,766	460,344	0	0	274	0	141,578
PRIDE	168,708	329,892	0	0	-338	0	161,184
PRULEASE	0	-883	0	0	-883	883	0
QUAKER-ST	116,592	295,900	0	0	-1,840	0	179,308
REMINGTON	0	-90	0	0	-90	90	0
RICO	0	-48	0	0	-48	48	0
ROAD-OIL	1,041	25,027	0	0	-7	0	23,986
ROCK-ISLAND	453,433	509,333	146,883	0	548	0	55,900
ROYAL	0	-140	0	0	-140	140	0
SABER-TEX	2,298	162,060	0	0	-7,711	0	159,762
SABRE-CAL	62,918	62,795	30,997	0	-123	123	0
SAGE-CREEK	2,644	5,788	0	0	-6	0	3,144
SAN-JOAQUIN	143,155	211,240	63,696	0	-1,546	0	68,085
SEARS	0	14,720	0	14,751	-31	0	14,720
SEMINOLE	0	47,020	0	0	-3,020	0	47,020
SHELL	12,454,356	10,268,144	0	14,113	347,050	2,186,212	0
SIGMOR	881	24,161	0	0	1,820	0	23,280
SKELLY	1,299,375	800,202	0	0	803	499,173	0
SO-HAMPTON	81,795	216,662	0	0	979	0	134,867
SOCAL	8,465,881	10,578,354	0	22,807	-5,834	0	2,112,473
SOCALEDISON	0	-87	0	0	-87	87	0
SOHIO	1,500,190	4,022,813	0	0	19,938	0	2,522,623
SOMERSET	46,271	59,911	0	0	-311	0	13,640
SOUND	41,764	61,486	0	0	-152	0	19,722
SOUTHLAND	445,011	347,487	97,290	0	200	97,524	0
SPRAGUE	0	44,779	0	44,779	0	0	44,779
STEUART	0	59,238	0	60,136	-898	0	59,238
SUNLAND	208,216	214,524	89,850	0	6,308	0	6,308
SUNOCO	6,315,556	4,545,372	0	0	-75,012	1,770,184	0
SWANN	0	72,837	0	73,308	-471	0	72,837
TARRICONE	0	-121	0	0	-121	121	0

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	********** REQUIRED TO BUY	REQUIRED TO SELL
TAUBER	0	-83	0	0	-83	83	0
TENNECO	935,553	857,632	0	0	-51,792	77,921	0
TESORO	1,193,807	887,633	0	0	3,481	306,174	0
TEXACO	12,258,263	10,918,810	0	398,218	40,867	1,339,453	0
TEXAS-ASPH	1,981	-4,180	0	0	-7,155	6,161 *	0
TEXAS-CITY	504,984	732,831	0	0	-29,245	0	227,847
THAGARD	124,844	124,840	46,029	0	-4	4	0
THE-REFINERY	0	-2,641	0	0	-2,641	2,641	0
THRIFTWAY	37,409	41,351	0	0	-107	0	3,942
THUNDERBIRD	138,136	210,608	0	0	-296	0	72,472
TONKAWA	36,934	65,405	0	0	-194	0	28,471
TOTAL-LEONARD	189,529	465,009	0	0	-1,915	0	275,480
UCC-CARIBE	0	214,590	214,590	0	0	0	214,590
UNION-OIL	5,952,313	4,573,142	0	9,420	80,011	1,379,171	0
UNION-PETRO	0	50,751	0	50,751	0	0	50,751
UNION-TEXAS	112,234	152,394	0	0	227	0	40,160
UNTD-IND	0	54	0	0	54	0	54
UNTD-REF	205,450	475,322	0	0	-14,624	0	269,872
US-OIL	33,986	240,991	0	0	-489	0	207,005
USA-PETROCHEM	39,362	168,880	0	0	0	0	129,518
VEN-FUEL	0	-89	0	0	-89	89	0
VICKERS	323,508	500,581	0	0	676	0	177,073
VULCAN	116,791	192,403	0	0	-124	0	75,612
WALLER	0	9,269	0	9,420	-151	0	9,269
WARRIOR	71,485	66,379	40,575	0	-5,106	5,106	0
WEBBER	0	178	0	0	178	0	178
WELLEN	0	-115	0	0	-115	115	0
WEST-COAST	43,472	53,265	0	0	-2,531	0	9,793
WESTERN	40,296	69,014	0	0	7,130	0	28,718
WHALECO	0	-38	0	0	-38	38	0
WICKETT	87,943	84,096	0	0	-4	3,847	0
WINSTON	118,450	213,615	0	0	-10	0	95,165
WIREBACK	332	1,108	0	0	32	0	776
WITCO	144,133	129,798	0	0	-247	14,335	0

*In addition, the purchase obligation shown is subject to pending litigation between this refiner and the FEA.

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	********** REQUIRED TO BUY	REQUIRED TO SELL
WYATT	0	19,491	0	20,204	-713	0	19,491
YETTER	219	706	0	0	-6	0	487
YOUNG	48,782	48,778	17,002	0	-4	4	0
TOTAL	153,086,591	153,086,591	2,490,425	3,241,751	0	23,111,311	23,111,311

[FR Doc.76-28160 Filed 9-22-76;11:10 am]

federal register

TUESDAY, SEPTEMBER 28, 1976



PART VI:

FEDERAL TRADE COMMISSION

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PRIVACY ACT OF 1974

Addition of System of Records

FEDERAL TRADE COMMISSION

PRIVACY ACT OF 1974

Addition of Systems of Records

The Commission proposes to adopt the following notice of a system of records maintained by the Commission and required to be published in the Federal Register pursuant to the Privacy Act of 1974 (P.L. 93-579, 5 U.S.C. Section 552a). This notice was inadvertently omitted from the groups of notices previously published by the Commission.

In accordance with Sections 552a(e)(4)(D) and (e)(11) of the Privacy Act, interested persons may submit written data, views, or arguments pertaining to the routine uses set forth in this notice. Comments on these routine uses received by the Commission within 30 days of publication of this notice will be considered by the Commission before taking final action on the notice of routine uses. Comments should be addressed to the Secretary, Federal Trade Commission, Washington, D.C. 20580.

Charles A. Tobin,
Secretary.

FTC—52

System name: Equal Employment Opportunity Statistical Reporting System—FTC

System location: Optimum Systems, Inc., Rockville, Md.

Categories of individuals covered by the system: Current FTC employees.

Categories of records in the system: Coded minority group designations.

Authority for maintenance of the system: 5 U.S.C. Sections 1301, 3301, 7151, 7154, and Executive Order 10577, Nov. 22, 1954.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the Equal Employment Opportunity Director in composite statistical form only, for analyses and reports within the Commission and to the Civil Service Commission as required by law.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on magnetic disk.

Retrievability: Minority group designations may be retrieved by name or group, or by cross-reference to title and grade information contained in FTC System 26, General Personnel Records (Official Personnel Folder and Records Related Thereto): Duplicate Personnel Files and Automated Records.

Safeguards: Access may be obtained only by written authorization of the Equal Employment Opportunity Director.

Retention and disposal: Coded information is erased when the individual ceases employment at the FTC.

System manager(s) and address: Equal Employment Opportunity Director

Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Notification procedure: By mailing or delivering a written request ng the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Visual identification of each employee by Division of Personnel staff.

Issued by direction of the Commission dated September 3, 1976.

[FR Doc.76-27792 Filed 9-27-76;8:45 am]

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