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HIGHLIGHTS OF THIS ISSUE

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FEDERAL REGISTER

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List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

Rules and Regulations

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-SO-118, Amdt. 39-1564]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Model PA-34-200 Series Airplanes

There have been failures of the exhaust system on Piper Model PA-34 airplanes. This condition could result in hot exhaust gases in the engine compartment. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection of the exhaust system for loose, broken and cracked ducts or flanges.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, 31 F.R. 13697, § 39.13 of Part 39 of the Federal Aviation regulations is amended by adding the following new airworthiness directive:

PIPER: Applies to PA-34-200 airplanes, Serial Numbers 34-E4 and 34-7250001 and up. Compliance required as indicated.

To insure that cracks are not present in the exhaust system, accomplish the following:

(a) For those airplanes with 25 or more hours' time in service on the effective date of this airworthiness directive, unless already accomplished within the last 25 hours' time in service, comply with paragraphs (c) and (d) within the next 10 hours' time in service and thereafter at intervals not to exceed 25 hours' time in service from the last inspection.

(b) For those airplanes with less than 25 hours' time in service on the effective date of this airworthiness directive, unless already accomplished, comply with paragraphs (c) and (d) upon the accumulation of 25 hours' time in service or within the next 10 hours, whichever is later, and thereafter at intervals not to exceed 25 hours' time in service from the last inspection.

(c) Open both left and right cowl doors on both right and left engines and make a thorough visual inspection of the exhaust system for any evidence of cracks or failed ducts or flanges.

(d) If the exhaust systems are found to contain cracked or broken ducts, flanges, or parts, replace with new replacement parts or repair the affected parts in accordance with Advisory Circular 43.13-1 before further flight.

Piper Service Bulletin No. 373 dated November 13, 1972, pertains to this subject.

This amendment is effective December 1, 1972.

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

Issued in East Point, Ga., on November 17, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-20444 Filed 11-28-72;8:48 am]

[Docket No. 12062, Amdt. 39-1568]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls Royce Dart Series Engines

Amendment 39-1491 (37 F.R. 14757), AD 72-16-5 requires replacement of certain specified first and second stage impellers, installed on Rolls Royce Dart Series Models 506, 510, 511, 514, 525 through 529, 531, and 532 engines and all variants within the next 50 flights after the effective date of that AD or before reaching the specified life limits on those impellers. After issuing Amendment 39-1491, based on stress analyses, investigations of a service failure, and evaluations of high time Rolls Royce Dart Series engine impellers, the FAA has determined that service life limits are necessary for a number of impellers not covered by Amendment 39-1491. Therefore, the AD is being amended to provide for service life limits for an expanded group of impellers installed on Rolls Royce Dart Series engines.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation regulations, Amendment 39-1491 (37 F.R. 14757), AD 72-16-5 is amended as follows:

1. The applicability statement is amended to read as follows:

ROLLS ROYCE (1971) LTD. Applies to Dart Series Models 506, 510, 511, 514, 525 through 529, 531, 532, and 542 engines and all variants.

2. The lead in sentence to paragraph (a) of the AD is amended by deleting the word "table" and inserting the word "tables" in place thereof.

3. Paragraph (b) is redesignated as paragraph (c) and a new paragraph (b) is added to read as follows:

(b) Within the next 50 flights after the effective date of this amendment, Amendment 39-1568, effective December 4, 1972, or before the accumulation of the number of flights specified in column 3, for the applicable impeller, whichever occurs later, and thereafter at intervals not to exceed the number of flights specified in column 3 replace the applicable impellers specified in column 2 when they are installed on the engines specified in column 1 with impellers having the same part number or a part number approved for that engine, which have not exceeded their life limits.

Column 1—Dart Engine Series	Column 2—Impellers	Column 3—Life Limits (flights)
Models 506, 510, 511, 514 and all variants.	First stage impellers incorporating Modification 1455.	14,000 since the incorporation of Modification 1455.
Models 525 through 529, 531, and 532 and all variants.	do	11,500 since the incorporation of Modification 1455.
Models 542-4 and 542-10 and all variants.	Second stage impellers incorporating all Pre-Modification 1455 modifications.	12,000.
	Second stage impellers incorporating Modification 1455.	16,000 since the incorporation of Modification 1455.
	Second stage impellers incorporating Modification 1475.	14,500.

This amendment becomes effective December 4, 1972.

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

Issued in Washington, D.C., on November 21, 1972.

C. R. MELUGIN, JR.,
Acting Director,
Flight Standards Service.

[FR Doc.72-20443 Filed 11-28-72;8:48 am]

[Docket No. 12387; Amdt. 840]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAPs are available for examination at the rules docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

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

In consideration of the foregoing, Part 97 of the Federal Aviation regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective January 11, 1973:

Big Lake, Alaska—Big Lake No. 2 Airport; VOR Runway 6, Amdt. 3; Revised.
Dothan, Ala.—Dothan Airport, VOR-A, Amdt. 5; Revised.
Dothan, Ala.—Dothan Airport, VOR/DME Runway 13, Amdt. 5; Revised.
Dothan, Ala.—Dothan Airport, VOR/DME Runway 18, Amdt. 6; Revised.
Henderson, Ky.—Henderson City-County Airport, VOR-A, Amdt. 5; Revised.
Jacksonville, Fla.—Jacksonville International Airport, VOR Runway 31, Amdt. 2; Revised.
Joliet, Ill.—Joliet Municipal Airport, VOR Runway 13, Amdt. 1; Revised.
Spokane, Wash.—Spokane International Airport, VOR Runway 3, Amdt. 10; Revised.

* * * Effective December 7, 1972:

Atlanta, Ga.—DeKalb-Peachtree Airport, VOR Runway 27, Amdt. 11; Revised.
Philadelphia, Pa.—Philadelphia Airport, VOR Runway 9R, Original; Established.
Philadelphia, Pa.—Philadelphia Airport, VOR/DME Runway 27R, Original; Established.

* * * Effective November 22, 1972:

Alma, Ga.—Bacon County Airport, VOR Runway 15, Amdt. 2; Canceled.

* * * Effective November 17, 1972:

Muskegon, Mich.—Muskegon County Airport, VOR/DME Runway 5, Amdt. 1; Revised.

* * * Effective November 16, 1972:

Benton Harbor, Mich.—Ross Field, VOR Runway 27, Amdt. 11; Revised.

2. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's, effective January 11, 1973:

Jacksonville, Fla.—Jacksonville International Airport, LOC(BC) Runway 25, Amdt. 2; Revised.
Spokane, Wash.—Spokane International Airport, LOC(BC) Runway 3, Amdt. 7; Revised.

* * * Effective December 14, 1972:

Fayetteville, Ark.—Drake Field, LOC Runway 16, Original; Established.

* * * Effective December 7, 1972:

Atlanta, Ga.—DeKalb-Peachtree Airport, LOC Runway 20L, Original; Established.

3. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective January 11, 1973:

Jacksonville, Fla.—Jacksonville International Airport, NDB Runway 7, Amdt. 3; Revised.
Spokane, Wash.—Spokane International Airport, NDB Runway 21, Amdt. 11; Revised.

* * * Effective November 17, 1972:

Americus, Ga.—Souther Field, NDB Runway 22, Amdt. 2; Revised.

4. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective January 11, 1973:

Jacksonville, Fla.—Jacksonville International Airport, ILS Runway 7, Amdt. 3; Revised.
Spokane, Wash.—Spokane International Airport, ILS Runway 21, Amdt. 15; Revised.

* * * Effective December 7, 1972:

Philadelphia, Pa.—Philadelphia International Airport, ILS Runway 27R, Amdt. 1; Revised.

5. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAPs, effective January 11, 1973:

Spokane, Wash.—Spokane International Airport, Radar-1, Amdt. 8; Revised.

* * * Effective December 7, 1972:

Philadelphia, Pa.—Philadelphia International Airport, Radar-1, Amdt. 13; Revised.

6. Section 97.33 is amended by establishing, revising, or canceling the following RNAV SIAPs, effective January 11, 1973:

Miami, Fla.—Opa Locka Airport, RNAV Runway 9L, Amdt. 1; Revised.

* * * Effective December 7, 1972:

Atlanta, Ga.—DeKalb-Peachtree Airport, RNAV Runway 20L, Amdt. 3; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c), 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on November 22, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.72-20445 Filed 11-28-72;8:48 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-781; Amdt. 3]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Miscellaneous Amendments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of November 1972.

The purpose of this editorial amendment is to correct certain errors and omissions which have come to our attention, as follows: (1) A reference to the "Federal Aviation Agency" should be corrected to refer to the "Federal Aviation Administration"; (2) references to "Civil Air Regulations" should be corrected to refer to "Federal Aviation Regulations"; (3) the word "international" in the title of Z501 under section 19-5(e) should be corrected to read "interairport"; and (4) revisions should be made in the chart in section 7 (Chart of Profit and Loss Accounts) to correct the omission of item 83, repetition of item 84.2 and the jumbling of item 86.

In addition, we are re-inserting paragraph (g), section 25, Schedule T-3 which was inadvertently dropped when Regulation ER-586 was adopted on August 6, 1969 (34 F.R. 14584). However, we shall reinsert this paragraph (g) in section 19.2, instead of section 25, and this change, in turn, necessitates parallel revisions in paragraph (d)(12) of section 22 and paragraph (d)(11) of section 32, which refer to said paragraph (g).

This regulation is issued by the undersigned pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR 385.19, and shall become effective on December 19, 1972. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50 and 385.54).

Accordingly, the Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241) effective December 19, 1972, as follows:

1. Amend Section 03 to read in part as follows:

Section 03—Definitions for Purposes of This System of Accounts and Reports

* * * * *

Airworthiness (or Airworthy)—when applied to a particular aircraft or component part, it denotes the ability of

such aircraft or component part to perform its function satisfactorily through a range of operations determined by the Federal Aviation Administration.

* * * * *

2. Amend paragraph (f) of section 5–4 to read as follows:

Sec. 5–4 Property and equipment depreciation and overhaul.

* * * * *

(f) Each air carrier shall adopt procedures of accounting for airframe and aircraft engine overhauls as will effectively result in the allocation of total maintenance expense between accounting periods in accordance with the use of airframes and aircraft engines. When overhauls are scheduled in such a manner as will produce a relatively equitable allocation of maintenance costs between accounting periods, the cost of each overhaul may be expensed directly as performed. Under circumstances in which overhaul procedures are such that the direct expensing of overhaul costs will not result in an equitable allocation of total maintenance costs as between different accounting periods the air carrier shall apply, consistently with respect to all airframe and engine types for which direct expensing of overhaul costs will not effectively produce an equitable allocation of cost, the accounting procedures set forth in paragraph (g) of this section 5–4. For the purposes of this system of accounts and reports, an airframe or aircraft engine "overhaul" shall be deemed to encompass the total of those inspections or replacements of major components performed in piecemeal phases, or in one operation, as are required to be performed at specified maximum periodic intervals by the Federal Aviation Regulations to recertify that airframes or aircraft engines are in a completely airworthy condition. Costs which attach to the routine replacement of minor parts and servicing or inspection of airframes and aircraft engines, performed on a recurrent but not scheduled basis, or on a scheduled basis without withdrawal from line service, to maintain airframes and aircraft engines in an operating condition, shall not be considered to be "overhaul" but shall be expensed directly as ordinary recurrent maintenance. Extraordinary costs of material amounts associated with the renewal of major structural parts of airframes and aircraft engines beyond the scope of normal periodic overhauls, or which are incurred at periodic intervals approximating the depreciable service life of the airframe and aircraft engine types to which related, shall not be considered to be overhauls. Such costs shall be accounted for as restoration of assets chargeable to the related property account. The cost of components removed, together with related depreciation reserves shall be treated as retired property and accounted for accordingly. In the event identification of the cost of the components removed is not feasible, the costs entailed in substituting components may be charged against the related depreciation reserves.

* * * * *

3. Amend section 7 to read in part as follows:

Section 7—Chart of Profit and Loss Accounts

Objective classification of profit and loss elements	Functional or financial activity to which applicable (00)		
	Group I carriers	Group II carriers	Group III carriers
* * *	* * *	* * *	* * *
82 Unapplied cash discounts	81	81	81.
83 Interest income	81	81	81.
84 Income from subsidiary companies and dividend income			
84.1 Income from subsidiary companies	81	81	81.
84.2 Dividend income—other than subsidiary companies	81	81	81.
85 Foreign exchange adjustments	81	81	81.
86 Income from nontransport ventures	81	81	81.
* * *	* * *	* * *	* * *

4. Add paragraph (g) to section 19–2 so that the section will read in part as follows:

Sec. 19–2 Maintenance of data.

* * * * *

(g) Each air carrier shall submit to the Civil Aeronautics Board a detailed statement of its method of computing available ton-miles and available seat-miles for each type of aircraft operated. Also, any future changes in methods of computation shall be submitted, subject to review and approval by the Civil Aeronautics Board. (See section 22(d).) The measurement of available aircraft capacity may reflect company minimum fuel requirements in lieu of the requirements under Federal Aviation Regulations, provided that the use of such company fuel requirements is indicated in the above statement and that the statement contain certification by a responsible company official that said fuel loads are not in excess of company safety requirements. The reason for exclusion of any installed seats in the computation of available seat-miles with respect to any aircraft type and the provisions made for protecting against the sale of such seats, shall be described in this statement and shall be certified to by a responsible company official. (See section 03 "seats available.")

5. Amend paragraph (e) of sec. 19–5 to read in part as follows:

Sec. 19–5 Air transport traffic and capacity elements.

* * * * *

(e) The elements, by category and alpha-numeric code, for which data are to be maintained in accordance with the above are as follows:

AIRPORT-TO-AIRPORT TRAFFIC AND CAPACITY DATA

Z501 *Interairport distance.* The great circle distance, in statute miles, between airports served by each flight stage, as published in the Civil Aeronautics Board's "Official Route and Mileage Manual." (See Part 247 of the Economic Regulations.)

* * * * *

6. Amend paragraph (d)(12) of section 22 to read as follows:

Section 22—General Reporting Instructions

* * * * *

(d) Statements of accounting * * *

* * * * *

(12) Procedures for computing available seat-miles and available ton-miles for each aircraft type, as required by paragraph (g) in section 19–2.

* * * * *

7. Amend paragraph (d)(11) of section 32 to read as follows:

Section 32—General Reporting Instructions

* * * * *

(d) Statement of accounting * * *

* * * * *

(11) Procedures for computing available seat-miles and available ton-miles for each aircraft type, as required by paragraph (g) in section 19–2 and paragraph (i), in section 35, Schedule T–3.1.

* * * * *

8. Amend paragraph (i) of the instructions for Schedule T–3.1 in section 35 to read as follows:

Section 35—Traffic and Capacity Elements

* * * * *

Schedule T–3.1—Statement of Traffic and Capacity Statistics

* * * * *

(i) Each supplemental air carrier shall submit to the Civil Aeronautics Board a detailed statement of its method of computing available ton-miles and available seat-miles for each type of aircraft operated. Also, any future changes in methods of computation shall be submitted, subject to review and approval by the Civil Aeronautics Board. (See sec. 32(d).) The measurement of available aircraft capacity may reflect company minimum fuel requirements in lieu of the requirements under Federal Aviation Regulations, provided that the use of such company fuel requirements is indicated in the above statement and that the statement contain certification by a responsible company official that

said fuel loads are not in excess of company safety requirements. The reason for exclusion of any installed seats in the computation of available seat-miles with respect to any aircraft type and the provisions made for protecting against the sale of such seats shall be described in this statement and shall be certified to by a responsible company official. (See sec. 03 "seats available.")

* * * * *

(Section 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] R. TENNEY JOHNSON,
General Counsel.

[FR Doc.72-20492 Filed 11-28-72;8:52 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release Nos. 33-5337, 34-9882, 35-17781, IC-7526, IA-352.]

PART 202—INFORMAL AND OTHER PROCEDURES

Consent Decrees in Judicial or Administrative Proceedings

The Securities and Exchange Commission today announced adoption of a policy with respect to consent decrees in judicial or administrative proceedings under the laws which it administers. In this connection it has amended § 202.5 of Part 202 of the Code of Federal Regulations relating to informal and other proceedings, as indicated below.

COMMISSION ACTION

Pursuant to the authority granted in section 19 of the Securities Act of 1933, section 23(a) of the Securities Exchange Act of 1934, section 20 of the Public Utility Holding Company Act of 1935, section 38 of the Investment Company Act of 1940 and section 211 of the Investment Advisers Act of 1940, the Securities and Exchange Commission hereby amends § 202.5 of Chapter II of Title 17 of the Code of Federal Regulations by adding thereunder a new paragraph (c) reading as follows:

§ 202.5 **Enforcement activities.**

* * * * *

(e) The Commission has adopted the policy that in any civil lawsuit brought by it or in any administrative proceeding of an accusatory nature pending before it, it is important to avoid creating, or permitting to be created, an impression that a decree is being entered or a sanction imposed, when the conduct alleged did not, in fact, occur. Accordingly, it hereby announces its policy not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings. In this regard, the Commission believes that a refusal to admit the allegations is equivalent to a denial, unless the defendant or respondent states that he neither admits nor denies the allegations.

(Secs. 19, 209, 48 Stat. 85, 908, 15 U.S.C. 77s; sec. 23(a), 48 Stat. 901, sec. 8, 49 Stat. 1379, 15 U.S.C. 78w(a); sec. 20, 49 Stat. 833, 15 U.S.C. 79t; sec. 38, 54 Stat. 841, 15 U.S.C. 80a-37; sec. 211, 54 Stat. 855, sec. 14, 74 Stat. 888, 15 U.S.C. 80b-11)

The Commission finds that the foregoing amendment relates only to rules of agency organization, procedure and practice and, therefore, notice and procedures specified in 5 U.S.C. 553 are unnecessary. The foregoing amendment is declared to be effective immediately.

By the Commission.

RONALD F. HUNT,
Secretary.

NOVEMBER 28, 1972.

[FR Doc.72-20559 Filed 11-28-72;8:54 am]

[Release No. 34-9856]

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

Broker-Dealers; Maintenance of Certain Basic Reserves

The Securities and Exchange Commission today announced the adoption of Rule 15c3-3 (17 CFR 240.15c3-3) under the Securities Exchange Act of 1934 (the "Act"). The rule provides a formula for the maintenance by broker-dealers of basic reserves with respect to customers' cash and cash realized through the utilization of customers' securities and enunciates standards for broker-dealers concerning the physical possession or control of fully-paid and excess margin of customers' securities.

On September 14, 1972, in Securities Exchange Act Release No. 9775, (37 F.R. 20260), and on two other occasions, May 31, 1972, in Securities Exchange Act Release No. 9622, (37 F.R. 11690) and November 8, 1971, in Securities Exchange Release No. 9388 (36 F.R. 22312) the Commission proposed Rule 15c3-3 and sought public comment. It has considered the comments and suggestions received in response to the proposals and now adopts the rule as set forth below. The basic principles and format of the September 14, 1972, proposal have been retained, the modifications to the September 14th proposal being primarily technical and in one instance to meet a hardship wich was represented to exist by certain members of the financial community.

OBJECTIVES OF RULE 15c3-3

It is the Commission's view that, in the context of the other customer protective provisions it has recently adopted,[1] Rule 15c3-3 as adopted herein is well fashioned to furnish the protection for the integrity of customer funds and securities as envisioned by Congress when it amended section 15(c)(3) of the Act by adopting section 7(d) of the Securities Investor Protection Act of 1970 (the "SIPC Act"). In meeting the Congressional directive for rules regarding the acceptance, custody and use of customers' securities and the maintenance of reserves with respect to customer deposits and credit balances the Commission seeks to accomplish the following in Rule 15c3-3:

(i) To insure that customers' funds held by a broker-dealer (both free credit balances and deposits which may be restricted as to withdrawal) and the cash which is realized through the lending, hypothecation and other permissible uses of customers' securities are deployed in safe areas of the broker-dealer's business related to servicing his customers, or to the extent that the funds are not deployed in these limited areas, that they be deposited in a reserve bank account. In this regard, the Commission has taken a broad view of the Congressional mandate by requiring that the reserve account include all funds which have as their source customer assets.

(ii) To require a broker-dealer promptly to obtain possession or control of all fully-paid securities and excess margin securities carried by that broker-dealer for the account of customers and to require him to act within designated time frames where possession or control has not been established.

(iii) To accomplish a separation of the brokerage operation of the firm's business from that of its firm activities such as underwriting and trading.

(iv) To require a broker-dealer to maintain more current records. Thus, Rule 15c3-3 requires a daily determination of security locations and periodic computations of the reserve.

(v) To motivate the securities industry to process its securities transactions in a more expeditious manner. This is particularly important in the area of the rule which penalizes a broker-dealer if a security is in a location which the Commission has determined to be unacceptable or has been out of the broker-dealer's possession for too long a period, as for example in transfer.

(vi) To inhibit the unwarranted expansion of a broker-dealer's business through the use of customers' funds by prohibiting the use of those funds except for designated purposes.

(vii) To augment the broad program of broker-dealer financial responsibility

[1] Among these are Rules: 17a-13 (the box count rule); 17a-5(j) and 17a-11 (establishing an effective early warning system); 17a-5 as amended (requiring the furnishings of financial information to customers); 15c3-1 as amended (increasing minimum net capital requirements); 15b1-2 and 15c3-1 as amended (imposing high minimum threshold net capital requirements and requiring detailed threshold information designed to effect conservative operation).

which the Commission has been developing as a result of the financial crisis experienced by the securities industry during the 1968–70 period.

(viii) To facilitate the liquidations of insolvent broker-dealers and to protect customer assets in the event of a SIPC liquidation through a clear delineation in Rule 15c3–3 of specifically identifiable property of customers.

In seeking these objectives the Commission has made every effort to make Rule 15c3–3 flexible enough to be compatible with the accounting, clearance, settlement, and depository systems presently operating or being developed in the securities industry. It is hoped that the rule will encourage the further development of these systems which will increase the protection of customers' funds and securities with the concomitant reduction in the need for this rule particularly in regard to those sections dealing with obtaining possession of securities which have not been brought under the broker-dealer's control within the normal settlement period. Where the provisions of the rule are at odds with present operational methods or where they require the development of new recordkeeping information it is because in the judgment of the Commission such systems or information are necessary to a comprehensive program of investor protection consistent not only with express congressional intent but with the high standards of financial responsibility which must prevail in the brokerage community. At the same time, however, the rule permits the smaller broker-dealer who does not hold customer funds or securities to effectuate his customer transactions through a special bank account and thereby avoid the computations and determinations of this rule which because of his size and capacity may be onerous to him.

Physical Possession or Control of Fully Paid and Excess Margin Securities

An important element of Rule 15c3–3 is the requirement for daily determinations by the broker-dealer of the fully paid and excess margin securities in his physical possession or control. The various subparagraphs of paragraph (d) of the rule prescribe the time periods within which a broker-dealer must act to bring securities under his possession or control if his daily determinations show a deficit with respect to his customers' fully paid and excess margin securities. If the determination as at the close of a given business day reveals physical possession or control of all securities of a particular issue required to be in such broker-dealer's possession or control, subparagraph (b)(2) states that, during the following business day, a broker-dealer may effect delivery of shares of such issue received that day to fulfill any of that day's delivery obligations.

With respect to the provisions of the rule relating to control locations, paragraph (c)(4) has been changed to permit application by registered exchanges or the NASD with respect to the designation of foreign locations deemed to be good control under the rule. Additional points of control of securities under the rule are: securities held by a bank custodian, not subject to a lien or claim, which must be delivered to the broker-dealer upon demand without payment of money or other value (paragraph (c)(5)); securities held by a branch office or in transit between offices of the broker-dealer, or held by a guaranteed corporate subsidiary under the control of and operated as a branch office of the broker-dealer (paragraph (c)(6)); securities in the custody or control of a clearing corporation or carried in a special omnibus account (as defined) (paragraphs (c)(1) and (c)(2)); securities in transfer not in excess of 40 days (paragraph (c)(3)); and finally, to provide flexibility to deal with future developments in the securities industry, securities in such other locations as the Commission, upon application or on its own motion, finds adequate for the protection of customers.

Paragraph (d)(1) of the rule provides for 2 business days and 5 business days, respectively, for the release of securities from a lien and for the return of the loaned securities in order to reduce them to possession or control for compliance with the rule. In addition, under paragraph (d)(2), the time after which a fail to receive must be reduced to possession through a buy-in or other procedure is 30 days.

Reserves With Respect to Customers' Funds

The revisions to the formula for determination of the reserve are principally technical in nature. In response to a number of public comments that Note B (1) to the formula may have a significant impact on the smaller broker-dealer in its ability to engage in the business of margin lending, the point at which debit balances in margin accounts are required to be reduced as permissible debits in the formula as a result of concentration in an underlying security collateralizing such margin indebtedness has been raised from 10 percent to 15 percent. Otherwise the formula has been retained in a form and concept identical to the September 14th proposal, placing on the credit side (items 1 through 9) funds for which the broker-dealer must be accountable and on the debit side (items 10 through 12) permissible areas where such funds may be deployed, otherwise to be deposited in a special reserve bank account (paragraphs (e)(1) and (e)(2) of the rule). The computation frequency has also been retained, monthly for the smaller firm and weekly for the firm which has aggregate indebtedness exceeding 800 percent of net capital or holds customer funds in excess of $1 million, as defined in the rule.

Exemptions

Subparagraph (k)(2)(B) exempts a broker-dealer whose transactions with customers consist exclusively of acting as an introducing broker-dealer to a clearing broker-dealer on a fully disclosed basis, and who transmits all customer funds and securities to the clearing broker-dealer who, in turn, carries all of the accounts of such customers. An additional exemption has been provided (subparagraph (k)(2)(A)) with respect to broker-dealers who carry no margin accounts, promptly transmit all customer funds and deliver all customer securities, do not otherwise hold funds or securities of customers and who effectuate all financial transactions with customers through one or more bank accounts designated as "Special Account for the Exclusive Benefit of his Customers." As with the Reserve Bank Accounts, a broker-dealer maintaining such a Special Account must receive and preserve a notification from the bank that the deposits are for the exclusive benefit of the broker-dealer's customers and are not subject to any lien or charge in favor of the bank or any person claiming through the bank. These exemptions are designed to provide an approach which alleviates difficulties many small and medium size broker-dealers may have in complying with the rule. At the same time the exemptions result in the complete separation of customer funds and property and afford protection over customer assets comparable with that to be attained under the provisions of the rule. The procedures outlined in these exemptions are consistent with one of the principal objectives of the SIPC Act that customer funds and securities not be exposed to risk of loss through broker-dealer insolvency.

Other Provisions

The provisions of paragraph (l) delineate the right of a customer to delivery of his fully-paid and excess margin securities. Paragraph (l) articulates the existing rights of broker-dealers to impose maintenance and other margin requirements as permited by § 220.7(b) of Regulation T, provided that such requirements are imposed equitably and reasonably.

Paragraph (m) requires a broker-dealer who sells a security for a customer to obtain possession no later than 10 business days after the settlement date. Additionally, this paragraph clarifies that a broker-dealer who maintains a separate omnibus account conforming to section 4(b) of Regulation T with another broker-dealer is not to be deemed a customer of such other broker-dealer for the purposes of the 10 business day limitation.

Regarding the Commission's exercise of authority under section 6(c)(2)(C)(iii) of the SIPC Act, the rule provides that all fully-paid and excess margin securities in the broker-dealer's physical possession or control or in transfer or stock dividend receivable shall constitute the specifically identifiable property of those customers entitled thereto as evidenced from the broker-dealer's records or as is established otherwise by the preponderance of the evidence or other demonstration, as the respective customers' interests may appear. The cash and qualified securities in the Reserve Bank Account are determined to be the

specifically identifiable property of customers with free credit balances. To the extent that the specifically identifiable property of any group of customers is not sufficient to satisfy all their claims, the property is to be prorated among them. In the event, however, that such property should exceed the aggregate claims of such customers, the excess is to be placed in the Single and Separate Fund which is provided for in section 6(c)(2)(B) of the SIPC Act for customers generally.

Paragraph (n) provides for extensions of the time in which a broker-dealer is required to buy-in securities as specified in the rule upon good faith application to a self-regulatory body which would grant such extensions in only exceptional circumstances. Any extensions granted must be recorded together with the justification therefor and preserved for a period of not less than 3 years.

IMPACT AND MONITORING

Rule 15c3-3 represents the first comprehensive program undertaken by the Commission to provide regulatory safeguards over customers' funds and securities held by broker-dealers. The handling and processing of customers' funds and securities is a complex process and to a degree the necessary safeguards embodied in Rule 15c3-3 reflect that process. Inasmuch as the rule is comprehensive, touching upon many phases of the broker-dealer's business, its uniformity of application may lead in certain instances to significant impact upon some broker-dealers. Such impact may be attributable to a unique manner in which securities may be processed or held by a particular broker or to the type of business engaged in by the broker-dealer. These broker-dealers are encouraged to consult with the staff of the Commission in the case where the rule works an operational hardship or severely impacts to determine if substitute procedures can be devised which offer equal protection to customer assets or to ascertain whether a phasing in of a particular provision of the rule might be appropriate.

The operations of Rule 15c3-3 will be carefully monitored by the Commission to determine whether there will be need in the public interest and for the protection of investors to tighten or relax any of the restraints and time frames embodied in the rule. The Commission recognizes that this is by no means a final solution and that work must continue to develop a total systems approach which will reduce the time required to clear and settle securities transactions, reduce the paperwork, and increase the safety of customers' funds and securities.

STATUTORY BASIS AND EFFECTIVE DATE

The Securities and Exchange Commission, acting pursuant to the provision of the Securities Exchange Act of 1934 and the Securities Investor Protection Act of 1970, particularly sections 15(c)(3), 15(c)(2), 17(a) and 23(a) of the Exchange Act as well as section 6(c)(2)(C)(iii) of the SIPC Act, and deeming it in the public interest and for the protection of investors, hereby adopts new § 240.15c3-3 in Part 240 of Chapter II of Title 17 of the Code of Federal Regulations as set forth below, effective January 15, 1973:

§ 240.15c3-3 Customer protection—reserves and custody of securities.

(a) *Definitions.* For the purpose of this section:

(1) The term "customer" shall mean any person from whom or on whose behalf a broker or dealer has received or acquired or holds funds or securities for the account of such person, but shall not include a broker or dealer, or a general, special or limited partner or director or officer of a broker or dealer, or any person to the extent that such person has a claim for property or funds which by contract, agreement or understanding, or by operation of law, is part of the capital of the broker or dealer or is subordinated to the claims of creditors of the broker or dealer: *Provided, however,* That the term "customer" shall also include a broker or dealer but only insofar as such broker or dealer maintains a special omnibus account carried with another broker or dealer in compliance with section 4(b) of Regulation T under the Securities Exchange Act of 1934 (12 CFR Part 220).

(2) The term "securities carried for the account of a customer" (hereinafter also "customer securities") shall mean:

(i) securities received by or on behalf of a broker or dealer for the account of any customer and securities carried long by a broker or dealer for the account of any customer; and

(ii) securities sold to, or bought for, a customer by a broker or dealer.

(3) The term "fully paid securities" shall include all securities carried for the account of a customer in a special cash account as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System, as well as margin equity securities within the meaning of Regulation T which are carried for the account of a customer in a general account or any special account under Regulation T during any period when section 8 of Regulation T (12 CFR 220.8) specifies that margin equity securities shall have no loan value in a general account or special convertible debt security account, and all such margin equity securities in such account if they are fully paid: *Provided, however,* That the term "fully paid securities" shall not apply to any securities which are purchased in transactions for which the customer has not made full payment.

(4) The term "margin securities" shall mean those securities carried for the account of a customer in a general account as defined in Regulation T, as well as securities carried in any special account (such general or special accounts hereinafter referred to as "margin accounts") other than the securities referred to in paragraph (a)(3) of this section.

(5) The term "excess margin securities" shall mean those securities referred to in paragraph (a)(4) of this section carried for the account of a customer having a market value in excess of 140 percent of the total of the debit balances in the customer's account or accounts encompassed by paragraph (a)(4) of this section which the broker or dealer identifies as not constituting margin securities.

(6) The term "qualified security" shall mean a security issued by the United States or a security in respect of which the principal and interest are guaranteed by the United States.

(7) The term "bank" shall mean a bank as defined in section 3(a)(6) of the Act and shall also mean any building and loan, savings and loan or similar banking institution subject to supervision by a Federal banking authority. With respect to a broker or dealer who maintains his principal place of business in the Dominion of Canada, the term "bank" shall also mean a Canadian bank subject to supervision by an authority of the Dominion of Canada.

(8) The term "free credit balances" shall mean liabilities of a broker or dealer to customers which are subject to immediate cash payment to customers on demand, whether resulting from sales of securities, dividends, interest, deposits or otherwise, excluding, however, funds in commodity accounts which are segregated in accordance with the Commodity Exchange Act or in a similar manner.

(9) The term "other credit balances" shall mean cash liabilities of a broker or dealer to customers other than free credit balances and funds in commodities accounts segregated as aforesaid.

(10) The term "funds carried for the account of any customer" (hereinafter also "customer funds") shall mean all free credit and other credit balances carried for the account of the customer.

(b) *Physical possession or control of securities.* (1) A broker or dealer shall promptly obtain and shall thereafter maintain the physical possession or control of all fully-paid securities and excess margin securities carried by a broker or dealer for the account of customers.

(2) A broker or dealer shall not be deemed to be in violation of the provisions of paragraph (b)(1) of this section regarding physical possession or control of customers' securities if, solely as the result of normal business operations, temporary lags occur between the time when a security is required to be in the possession or control of the broker or dealer and the time that it is placed in his physical possession or under his control, provided that the broker or dealer takes timely steps in good faith to establish prompt physical possession or control. The burden of proof shall be on the broker or dealer to establish that the failure to obtain physical possession or control of securities carried for the account of customers as required by paragraph (b)(1) of this section is merely temporary and solely the result of normal business operations including same day receipt and redelivery (turnaround),

and to establish that he has taken timely steps in good faith to place them in his physical possession or control.

(c) *Control of securities.* Securities under the control of a broker or dealer shall be deemed to be securities which:

(1) Are represented by one or more certificates in the custody or control of a clearing corporation or other subsidiary organization of either national securities exchanges or of a registered national securities association, or of a custodian bank in accordance with a system for the central handling of securities complying with the provisions of §§ 240.8c–1(g) and 240.15c2–1(g) the delivery of which certificates to the broker or dealer does not require the payment of money or value, and if the books or records of the broker or dealer identify the customers entitled to receive specified quantities or units of the securities so held for such customers collectively; or

(2) Are carried for the account of any customer by a broker or dealer and are carried in a special omnibus account in the name of such broker or dealer with another broker or dealer in compliance with the requirements of section 4(b) of Regulation T under the Act (12 CFR 220.4(b)), such securities being deemed to be under the control of such broker or dealer to the extent that he has instructed such carrying broker or dealer to maintain physical possession or control of them free of any charge, lien, or claim of any kind in favor of such carrying broker or dealer or any persons claiming through such carrying broker or dealer; or

(3) Are the subject of bona fide items of transfer; provided that securities shall be deemed not to be the subject of bona fide items of transfer if, within 40 calendar days after they have been transmitted for transfer by the broker or dealer to the issuer or its transfer agent, new certificates conforming to the instructions of the broker or dealer have not been received by him, he has not receivd a written statement by the issuer or its transfer agent acknowledging the transfer instructions and the possession of the securities or he has not obtained a revalidation of a window ticket from a transfer agent with respect to the certificate delivered for transfer; or

(4) Are in the custody of a foreign depository, foreign clearing agency or foreign custodian bank which the Commission upon application from a broker or dealer, a registered national securities exchange or a registered national securities association, or upon its own motion shall designate as a satisfactory control location for securities; or

(5) Are in the custody or control of a bank as defined in section 3(a)(6) of the Act, the delivery of which securities to the broker or dealer does not require the payment of money or value and the bank having acknowledged in writing that the securities in its custody or control are not subject to any right, charge, security interest, lien or claim of any kind in favor of a bank or any person claiming through the bank; or

(6)(i) Are held in or are in transit between offices of the broker or dealer; or (ii) are held by a corporate subsidiary if the broker or dealer owns and exercises a majority of the voting rights of all of the voting securities of such subsidiary, assumes or guarantees all of the subsidiary's obligations and liabilities, operates the subsidiary as a branch office of the broker or dealer, and assumes full responsibility for compliance by the subsidiary and all of its associated persons with the provisions of the Federal securities laws as well as for all of the other acts of the subsidiary and such associated persons; or

(7) Are held in such other locations as the Commission shall upon application from a broker or dealer find and designate to be adequate for the protection of customer securities.

(d) *Requirement to reduce securities to possession or control.* Not later than the next business day, a broker or dealer, as of the close of the preceding business day, shall determine from his books or records tne quantity of fully paid securities and excess margin securities in his possession or control and the quantity of fully paid securities and excess margin securities not in his possession or control. In making this daily determination inactive margin accounts (accounts having no activity by reason of purchase or sale of securities, receipt or delivery of cash or securities or similar type events) may be computed not less than once weekly. If such books or records indicate, as of such close of the business day, that such broker or dealer has not obtained physical possession or control of all fully paid and excess margin securities as required by this section and there are securities of the same issue and class in any of the following noncontrol locations:

(1) Securities subject to a lien securing moneys borrowed by the broker or dealer or securities loaned to another broker or dealer or a clearing corporation, then the broker or dealer shall, not later than the business day following the day on which such determination is made, issue instructions for the release of such securities from the lien or return of such loaned securities and shall obtain physical possession or control of such securities within two business days following the date of issuance of the instructions in the case of securities subject to lien securing borrowed moneys and within five business days following the date of issuance of instructions in the case of securities loaned; or

(2) Securities included on his books or records as failed to receive more than 30 calendar days, then the broker or dealer shall, not later than the business day following the day on which such determination is made, take prompt steps to obtain physical possession or control of securities so failed to receive through a buy-in procedure or otherwise; or

(3) Securities receivable by the broker or dealer as a security dividend receivable, stock split or similar distribution for more than 45 calendar days, then the broker or dealer shall, not later than the business day following the day on which such determination is made, take prompt steps to obtain physical possession or control of securities so receivable through a buy-in procedure or otherwise.

(e) *Special reserve bank account for the exclusive benefit of customers.* (1) Every broker or dealer shall maintain with a bank or banks at all times when deposits are required or hereinafter specified a "Special Reserve Bank Account for the Exclusive Benefit of Customers" (hereinafter referred to as the "Reserve Bank Account"), and it shall be separate from any other bank account of the broker or dealer. Such broker or dealer shall at all times maintain in such Reserve Bank Account, through deposits made therein, cash and/or qualified securities in an amount not less than the amount computed in accordance with the formula set forth in § 240.15c3–3a.

(2) It shall be unlawful for any broker or dealer to accept or use any of the amounts under items comprising Total Credits under the formula referred to in paragraph (e)(1) of this section except for the specified purposes indicated under items comprising Total Debits under the formula, and, to the extent Total Credits exceed Total Debits, at least the net amount thereof shall be maintained in the Reserve Bank Account pursuant to paragraph (e)(1) of this section.

(3) Computations necessary to determine the amount required to be deposited as specified in paragraph (e)(1) of this section shall be made weekly, as of the close of the last business day of the week, and the deposit so computed shall be made no later than 1 hour after the opening of banking business on the second following business day; provided, however, a broker or dealer which has aggregate indebtedness not exceeding 800 percent of net capital (as defined in § 240.15c3–1 or in the capital rules of a national securities exchange of which it is a member and exempt from § 240.15c3–1 by subparagraph (b)(2) thereof) and which carries aggregate customer funds (as defined in paragraph (a)(10) of this section), as computed at the last required computation pursuant to this section, not exceeding $1 million, may in the alternative make the computation monthly, as of the close of the last business day of the month, and, in such event, shall deposit not less than 105 percent of the amount so computed no later than 1 hour after the opening of banking business on the second following business day. If a broker or dealer, computing on a monthly basis, has, at the time of any required computation, aggregate indebtedness in excess of 800 percent of net capital, such broker or dealer shall thereafter compute weekly as aforesaid until four successive weekly computations are made, none of which were made at a time when his aggregate indebtedness exceeded 800 percent of his

net capital. Computations in addition to the computations required in this subparagraph (3), may be made as of the close of any other business day, and the deposits so computed shall be made no later than 1 hour after the opening of banking business on the second following business day. The broker or dealer shall make and maintain a record of each such computation made pursuant to this subparagraph (3) or otherwise and preserve each such record in accordance with § 240.17a–4.

(f) *Notification of banks.* A broker or dealer required to maintain the reserve bank account prescribed by this section or who maintains a special account referred to in paragraph (k) of this section shall obtain and preserve in accordance with § 240.17a–4 written notification from each bank in which he has his reserve bank account or special account that the bank was informed that all cash and/or qualified securities deposited therein are being held by the bank for the exclusive benefit of customers of the broker or dealer in accordance with the regulations of the Commission, and are being kept separate from any other accounts maintained by the broker or dealer with the bank, and the broker or dealer shall have a written contract with the bank which provides that the cash and/or qualified securities shall at no time be used directly or indirectly as security for a loan to the broker or dealer by the bank and, shall be subject to no right, charge, security interest, lien, or claim of any kind in favor of the bank or any person claiming through the bank.

(g) *Withdrawals from the reserve bank account.* A broker or dealer may make withdrawals from his reserve bank account if and to the extent that at the time of the withdrawal the amount remaining in the reserve bank account is not less than the amount then required by paragraph (e) of this section. A bank may presume that any request for withdrawal from a reserve bank account is in conformity and compliance with this paragraph (g). On any business day on which a withdrawal is made, the broker or dealer shall make a record of the computation on the basis of which he makes such withdrawal, and he shall preserve such computation in accordance with § 240.17a–4.

(h) *Buy-in of short security differences.* A broker or dealer shall within 45 calendar days after the date of the examination, count, vertification and comparison of securities pursuant to § 240.17a–13 or otherwise or to the annual report of financial condition in accordance with § 240.17a–5, buy-in all short security differences which are not resolved during the 45-day period.

(i) *Notification in the event of failure to make a required deposit.* If a broker or dealer shall fail to make in his reserve bank account or special account a deposit, as required by this section, the broker or dealer shall by telegram immediately notify the Commission, the Securities Investor Protection Corp., and the regulatory authority for the broker or dealer, which examines such broker or dealer as to financial responsibility and shall promptly thereafter confirm such notification in writing.

(j) *Specifically identifiable property.* For the purpose of section 6(c)(2)(C)(iii) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff(c)(2)(C)(iii)) the following are hereby determined to be allocated to and shall constitute the specifically identifiable property of customers:

(1) All fully paid and excess margin securities in the physical possession or control (including any such securities under the control of the broker or dealer in which a customer can demonstrate ownership rights where the condition of the books or records of the broker or dealer may otherwise fail to accurately reflect such rights) of the broker or dealer or in transfer or stock dividend receivable shall constitute the specifically identifiable property of customers having claims for fully paid and excess margin securities as their interests may appear from the books or records of the broker or dealer or as is otherwise established by a preponderance of the evidence or to the satisfaction of a trustee appointed pursuant to section 5(b) of the Securities Investor Protection Act (15 U.S.C. 78eee(b)).

(2) The cash and qualified securities on deposit in the reserve bank account of a broker or dealer shall be deemed to be the specifically identifiable property of those customers of the broker or dealer who have free credit balances.

(3) If specifically identifiable property allocable to customers pursuant to subparagraph (1) or (2) of this paragraph is insufficient to satisfy the respective claims of such customers, such specifically identifiable property shall be prorated among such customers in accordance with their respective interests.

(4) If the specifically identifiable property allocable to either of the specified classes of customers referred to in subparagraph (1) or (2) of this paragraph exceeds their aggregate claims against such property, such excess shall thereafter constitute part of the "Single and Separate Fund" provided for in section 6(c)(2)(B) the Securities Investor Protection Act (15 U.S.C. 78fff(c)(2)(B)).

(k) *Exemptions.* (1) The provisions of this section shall not be applicable to a broker or dealer meeting all of the following conditions:

(i) His dealer transactions (as principal for his own account) are limited to the purchase, sale, and redemption of redeemable securities of registered investment companies or of interests or participations in an insurance company separate account, whether or not registered as an investment company; except that a broker or dealer transacting business as a sole proprietor may also effect occasional transactions in other securities for his own account with or through another registered broker or dealer;

(ii) His transactions as broker (agent) are limited to: (*a*) The sale and redemption of redeemable securities of registered investment companies or of interests or participations in an insurance company separate account, whether or not registered as an investment company; (*b*) the solicitation of share accounts for savings and loan associations insured by an instrumentality of the United States; and (*c*) the sale of securities for the account of a customer to obtain funds for immediate reinvestment in redeemable securities of registered investment companies; and

(iii) He promptly transmits all funds and delivers all securities received in connection with his activities as a broker or dealer, and does not otherwise hold funds or securities for, or owe money or securities to, customers.

(iv) Notwithstanding the foregoing, this section shall not apply to any insurance company which is a registered broker-dealer, and which otherwise meets all of the conditions in subdivisions (i), (ii), and (iii) of this subparagraph, solely by reason of its participation in transactions that are a part of the business of insurance, including the purchasing, selling, or holding of securities for or on behalf of such company's general and separate accounts.

(2) The provisions of this section shall not be applicable to a broker or dealer:

(i) Who carries no margin accounts, promptly transmits all customer funds and delivers all securities received in connection with his activities as a broker or dealer, does not otherwise hold funds or securities for, or owe money or securities to, customers and effectuates all financial transactions between the broker or dealer and his customers through one or more bank accounts, each to be designated as "Special Account for the Exclusive Benefit of Customers of (name of the broker or dealer)"; or

(ii) Who, as an introducing broker or dealer, clears all transactions with and for customers on a fully disclosed basis with a clearing broker or dealer, and who promptly transmits all customer funds and securities to the clearing broker or dealer which carries all of the accounts of such customers and maintains and preserves such books and records pertaining thereto pursuant to the requirements of §§ 240.17a–3 and 240.17a–4 of this chapter, as are customarily made and kept by a clearing broker or dealer.

(3) Upon written application by a broker or dealer, the Commission may exempt such broker or dealer from the provisions of this section, either unconditionally or on specified terms and conditions, if the Commission finds that the broker or dealer has established safeguards for the protection of funds and securities of customers comparable with those provided for by this section and that it is not necessary in the public interest or for the protection of investors to subject the particular broker or dealer to the provisions of this section.

(l) *Delivery of securities.* Nothing stated in this section shall be construed as affecting the absolute right of a customer of a broker or dealer to receive in the course of normal business operations following demand made on the broker or dealer, the physical delivery of certificates for:

(1) Fully-paid securities to which he is entitled and,

(2) Margin securities upon full payment by such customer to the broker or dealer of his indebtedness to the broker or dealer; and, subject to the right of the broker or dealer under § 220.7(b) of Regulation T [12 CFR 220.7(b)] to retain collateral for his own protection beyond the requirements of Regulation T, excess margin securities not reasonably required to collateralize such customer's indebtedness to the broker or dealer.

(m) *Completion of sell orders on behalf of customers.* If a broker or dealer executes a sell order of a customer (other than an order to execute a sale of securities which the seller does not own) and if for any reason whatever the broker or dealer has not obtained possession of the securities from the customer within 10 business days after the settlement date, the broker or dealer shall immediately thereafter close the transaction with the customer by purchasing securities of like kind and quantity: *Provided, however,* The term "customer" for the purpose of this paragraph (m) shall not include a broker or dealer who maintains a special omnibus account with another broker or dealer in compliance with section 4(b) of Regulation T [12 CFR 220.4(b)].

(n) *Extensions of time.* If a registered national securities exchange or a registered national securities association is satisfied that a broker or dealer is acting in good faith in making the application and that exceptional circumstances warrant such action, such exchange or association, on application of the broker or dealer, may extend any period specified in subparagraphs (2) and (3) of paragraph (d), paragraph (h) and paragraph (m) of this section, relating to the requirement that such broker or dealer take action within a designated period of time to buy-in a security, for one or more limited periods commensurate with the circumstances. Each such exchange or association shall make and preserve for a period of not less than 3 years a record of each extension granted pursuant to paragraph (n) of this section which shall contain a summary of the justification for the granting of the extension.

§ 240.15c3–3a Exhibit A—formula for determination reserve requirement of brokers and dealers under § 240.15c3–3.

	Credits	Debits
1. Free credit balances and other credit balances in customers' security accounts. (See Note A)	$XXX	
2. Monies borrowed collateralized by securities carried for the accounts of customers	XXX	
3. Monies payable against customers' securities loaned	XXX	
4. Customers' securities failed to receive	XXX	
5. Credit balances in firm accounts which are attributable to principal sales to customers	XXX	
6. Market value of stock dividends, stock splits and similar distributions receivable outstanding over 30 calendar days	XXX	
7. Market value of short security count differences over 30 calendar days old	XXX	
8. Market value of short securities and credits (not to be offset by longs or by debits) in all suspense accounts over 30 calendar days	XXX	
9. Market value of securities which are in transfer in excess of 40 calendar days and have not been confirmed to be in transfer by the transfer agent or the issuer during the last 40 days	XXX	
10. Debit balances in customers' cash and margin accounts excluding unsecured accounts and accounts doubtful of collection. (See Note B)		$XXX
11. Securities borrowed to effectuate short sales by customers and securities borrowed to make delivery on customers' securities failed to deliver		XXX
12. Failed to deliver of customers' securities not older than 30 calendar days		XXX
Total	XXX	XXX
13. Excess of total credits (sum of items 1–9) over total debits (sum of items 10–12) required to be on deposit in the "Reserve Bank Account" (§ 240.15c3-3(e)). If the computation is made monthly as permitted by this section, the deposit shall be not less than 105 percent of the excess of total credits over total debits		XXX

NOTE A. Item 1 shall include all outstanding drafts payable to customers which have been applied against free credit balances or other credit balances and shall also include checks drawn in excess of bank balances per the records of the broker or dealer.

NOTE B. (1) Debit balances in margin accounts shall be reduced by the amount by which a specific security (other than an exempted security) which is collateral for margin accounts exceeds in aggregate value 15 percent of the aggregate value of all securities which collateralize all margin accounts receivable; provided, however, the required reduction shall not be in excess of the amount of the debit balance required to be excluded because of this concentration rule. A specified security is deemed to be collateral for a margin account only to the extent it represents in value not more than 140 percent of the customer debit balance in a margin account.

(2) Debit balances in customers' cash and margin accounts included in the formula under item 10 shall be reduced by an amount equal to 1 percent of their aggregate value.

(Secs. 15(c)(2), 15(c)(3), 17(a), 23(a), 48 Stat. 895, 897, 901, secs. 3, 4, 8, 49 Stat. 1377, 1379, secs. 2, 5, 52 Stat. 1975, 1076, sec. 7(d), 84 Stat. 1653, 15 U.S.C. 78o(c), 78q(a), 78w(a); sec. 6(c) 84 Stat. 1652, 15 U.S.C. 78fff(c))

By the Commission.

[SEAL] GLADYS E. GREER,
Assistant Secretary.

NOVEMBER 17, 1972.

[FR Doc.72-20327, Filed 11-28-72;8:45 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

RUBBER ARTICLES INTENDED FOR REPEATED USE

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 1B2635) filed by the B. F. Goodrich Co., 500 South Main St., Akron, OH 44318, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of polyurethane resins as elastomers in the formulation of rubber articles intended for repeated food-contact use.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2562(c)(4)(i) is amended by alphabetically adding to the list of substances a new item, as follows:

§ 121.2562 Rubber articles intended for repeated use.

* * * * *

(c) * * *

(4) * * *

(i) *Elastomers.*

* * * * *

Polyurethane resins derived from reactions of diphenylmethane diisocyanate with adipic acid and 1,4-butanediol.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11–29–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-20459 Filed 11-28-72;8:49 am]

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Chorionic Gonadotropin Suspension, Veterinary

The Commissioner of Food and Drugs has evaluated a new animal drug application (47-353V) filed by Elanco Products Co., Post Office Box 1750, Indianapolis, IN 46206, proposing the safe and effective use of chorionic gonadotropin suspension for use as an aid in increasing the pregnancy rate of estrus synchronized and normal cycling heifers. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under the authority delegated to the Commissioner (21 CFR 2.120), § 135b.50 is revised to read as follows:

§ 135b.50 Chorionic gonadotropin for injection, veterinary; Chorionic gonadtropin suspension, veterinary.

(a)(1) *Specifications.* Chorionic gonadtropin for injection, veterinary, when reconstituted with appropriate diluent, provides 1,000 U.S.P. units of chorionic gonadotropin per milliliter.

(2) *Sponsor.* See code No. 035 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) The drug is intended for parenteral use in the treatment of cows for nymphomania (frequent or constant heat) due to cystic ovaries.

(ii) It is administered at a recommended dose of 10,000 U.S.P. units by deep intramuscular injection or 2,500 to 5,000 U.S.P. units intravenously or by intrafollicular injection of 500 to 2,500 U.S.P. units. Dosage may be repeated in 14 days if necessary.

(iii) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(b)(1) *Specifications.* Chorionic gonadotropin suspension, veterinary contains in each milliliter, 750 I.U. of chorionic gonadotropin suspended in white wax and sesame oil.

(2) *Sponsor.* See code No. 014 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) The drug is used as an aid in increasing pregnancy rate of estrus synchronized and normal cycling heifers.

(ii) It is administered at the rate of 2 milliliters (1,500 I.U.) subcutaneously at the time of insemination in the neck or shoulder region.

(iii) The drug is not to be used to induce multiple ovulations. Doses higher than recommended may reduce pregnancy rate.

(iv) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-29-72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: November 20, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72-20460 Filed 11-28-72;8:49 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter II—Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration)

[Docket No. R-72-208]

FHA REQUIREMENT OF FLOOD INSURANCE IN SPECIAL FLOOD HAZARD AREAS

A proposal was published on August 15, 1972 (37 F.R. 16505) to amend Title 24 of the Code of Federal Regulations to require flood insurance coverage on one- to four-family dwellings financed with a mortgage insured by the Department, if the property is located in a special flood hazard area, as designated by the Secretary of HUD, and if the first-floor elevation of the dwelling is less than 1 foot above the specified maximum elevation of the special flood hazard area. To carry out this policy the proposed regulations would require the collection by the mortgagee and the payment of flood insurance premiums by the mortgagor, when such insurance is required.

Interested persons were given an opportunity to participate in the rule making through submission of comments. The comments received reflected a general concern that elevation information within a flood hazard area will not be readily available to the housing industry; that homes built in an area, after it has been designated as a special flood hazard area, will be subject to a very high flood insurance premium; and that the proposed rule would encourage, rather than restrict, the development of housing within flood hazard areas.

Special flood hazard areas will be mapped and information as to the areas and elevations included within these areas will be obtainable from the Federal Insurance Administration. However, we recognize that this information would not be adequate for determining the exact elevation of a particular property in relation to the 100-year flood level. This could only be accomplished by a special survey and engineering study of the particular parcel.

Flood insurance will be available on an actuarial basis for homes built in an area after it has been designated as a special flood hazard area. The actuarial premium is related to the elevation of the first floor of the dwelling and the premium will not be excessive for property meeting HUD/FHA eligibility standards. These standards require that the first-floor elevation of the dwelling be at or above the 100-year frequency flood elevation. It should be clearly understood that the requirement for flood insurance will not be substituted for compliance with the HUD/FHA flood hazard exposure standards for mortgage insurance eligibility.

The flood insurance requirement is intended to and will discourage the development of new housing within a special flood hazard area at elevations involving a high risk of flooding. High flood insurance premiums, at the actuarial rate, will be charged on housing subject to such high risk. Housing that complies with HUD/FHA's flood hazard exposure standards will involve a lower risk; and insurance on such housing will be available at lower actuarial rates.

On the basis of the comments received and after a further review of the matter, the Department is adopting a provision that will require flood insurance coverage, where available under the National Flood Insurance Program, on all one- to four-family dwellings financed with a HUD/FHA-insured mortgage, if the property is located in a designated special flood hazard area or is otherwise determined by HUD/FHA to be subject to a significant flood hazard. It is recognized that this all inclusive type of requirement could result in arbitrarily requiring flood insurance coverage in a few isolated instances, where property is located at such a high elevation as to make it inappropriate to require the flood insurance. To take care of these few cases, a provision is included under which the Secretary may exclude a property located in a special flood hazard area from the requirements for flood insurance, if he determines the property is located at such a high elevation that there is no risk of flooding.

The new provision eliminates the condition included in the original proposal that would have limited the requirement for flood insurance to dwellings where the first floor level is less than 1 foot above the specified maximum elevation of the special flood hazard area. This condition would have imposed an unnecessary burden and expense on property owners, in some cases, where it would have been necessary to make a special survey and engineering study to determine the level of a particular parcel in relation to the 100-year flood level.

Accordingly, Parts 203, 213, and 222 of Subchapter B of Chapter II of Title 24 of the Code of Federal Regulations is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

1. In the table of sections, the following new section is added in proper alphabetical sequence:

Sec.

* * * * *

§ 203.16a Mortgagor and mortgagee requirement for maintaining flood insurance coverage

* * * * *

2. A new § 203.16a is added, to read as follows:

§ 203.16a Mortgagor and mortgagee requirement for maintaining flood insurance coverage.

(a) If the mortgage is to cover property that (1) is located in an area designated by the Secretary as a flood plain area having special flood hazards or (2) is otherwise determined by the Commissioner to be subject to a flood hazard; and if flood insurance under the National Flood Insurance Program (NFIP) is available with respect to such property, the mortgagor and mortgagee shall be obligated, by a special condition to be included in the mortgage insurance commitment, to obtain and to maintain NFIP flood insurance coverage on the property during such time as the mortgage is insured. The flood insurance to be maintained shall be in an amount at least equal to either the outstanding balance of the mortgage or the maximum amount of NFIP insurance available with respect to the property, whichever is less.

(b) The Secretary may exclude a property located in a special flood hazard area from the requirements for flood insurance, specified in paragraph (a) of this section, if he determines the property is located at such a high elevation that there is no risk of flooding.

3. Section 203.23(a) is revised to read as follows:

§ 203.23 Mortgagor's payments to include other charges.

(a) The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize (1) The ground rents, if any; (2) the estimated amount of all taxes; (3) special assessments, if any; (4) flood insurance premiums, if flood insurance is required by the Commissioner; and (5) fire and other hazard insurance premiums, if any, within a period ending 1 month prior to the dates on which the same before delinquent. The mortgage shall further provide that such payments shall be held by the mortgagee in a manner satisfactory to the Commissioner for the purpose of paying such ground rents, taxes, assessments, and insurance premiums before the same become delinquent, for the benefit and account of the mortgagor. The mortgage must also make provisions for adjustments in case the estimated amount of such taxes, assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

* * * * *

4. Section 203.24(a)(2) is revised to read as follows:

§ 203.24 Application of payments.

(a) * * *

(2) Ground rents, taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums.

* * * * *

5. Section 203.26 is amended to read as follows:

§ 203.26 Mortgagor's payments when mortgage is executed.

The mortgagor must pay to the mortgagee, upon the execution of the mortgage, a sum that will be sufficient to pay the ground rents, if any, the estimated taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums for the period beginning on the date to which such ground rents, taxes, assessments, and insurance premiums were last paid and ending on the date of the first monthly payment under the mortgage plus an amount sufficient to pay the mortgage insurance premium from the date of closing the loan to the date of the first monthly payment.

(Sec. 203 National Housing Act; 12 U.S.C. 1709)

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

1. Section 213.514(a) is amended to read as follows:

§ 213.514 Payments to include other charges.

(a) The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize: (1) The ground rents, if any; (2) the estimated amount of all taxes; (3) special assessments, if any; (4) flood insurance premiums, if flood insurance is required by the Commisisoner; and (5) fire and other hazard inurance premiums, within a period ending 1 month prior to the dates on which the same become delinquent. The mortgage shall further provide that such payments shall be held by the mortgagee in a manner satisfactory to the Commissioner, for the purpose of paying such ground rents, taxes, assessments, and insurance premiums, before the same become delinquent, for the benefit and account of the mortgagor. The mortgage must also make provision for adjustments in case the estimated amount of such taxes, assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

* * * * *

2. Section 213.515(b) is revised to read as follows:

§ 213.515 Payments, how applied.

* * * * *

(b) Ground rents, taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums.

* * * * *

3. Section 213.517 is amended to read as follows:

§ 213.517 Payments upon execution of mortgage.

The mortgagor must pay to the mortgagee upon the execution of the mortgage a sum that will be sufficient to pay the ground rents, if any, and the estimated taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums for the period beginning on the date to which such ground rents, taxes, assessments, and insurance premiums were last paid and ending on the date of the first monthly payment under the mortgage, and may be required to pay a further sum equal to the first annual mortgage insurance premium, plus an amount sufficient to pay the mortgage insurance premium from the date of closing the loan to the date of the first monthly payment.

(Sec. 213, National Housing Act; 12 U.S.C. 1715e)

PART 222—SERVICEMEN'S MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

4. Section 222.6(a)(1) is revised to read as follows:

§ 222.6 Application of payments.

(a) * * *

(1) Ground rents, taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums:

* * * * *

(Sec. 222, National Housing Act; 12 U.S.C. 1715m)

Effective date: These amendments shall become effective with respect to commitments for mortgage insurance issued pursuant to applicantions filed on and after January 1, 1973.

Issued at Washington, D.C. November 20, 1972.

JOHN L. GANLEY,
Deputy Assistant Secretary for Housing Production and Mortgage Credit.

[FR Doc.72-20482 Filed 11-28-72;8:51 am]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 58—RULES OF PRACTICE OF THE NATIONAL REVIEW PANEL, WORK INCENTIVE PROGRAM

There is added to Title 29, Code of Federal Regulations, a new Part 58, Rules of Practice of the National Review Panel, Work Incentive Program, which sets up procedures for appeals at the National level arising out of the Work Incentive Program.

As this part is procedural in character, notice of proposed rulemaking is not required by 5 U.S.C. 553. Delay in the effective date is contrary to the public interest as appeals should not be delayed 30 days for lack of a procedure. Accordingly, this Part 58 shall be effective upon publication.

The new Part 58 reads as follows:

Sec.
58.1 Definitions.
58.2 Appeals where a State does not provide for an appellate procedure.
58.3 Appeals from State appellate bodies.
58.4 Request for NRP to accept certification.
58.5 Review by NRP of cases certified at its request.
58.6 Consideration by and decisions of the NRP.
58.7 Service and filing of papers.
58.8 Motions.
58.9 Intervention.
58.10 Amicus curiae.
58.11 Representation.
58.12 Right to examine transcripts.
58.13 Finality of decisions.

AUTHORITY: The provisions of this Part 58 issued under 5 U.S.C. 301; 42 U.S.C. 633(g); Secretary's Order No. 24–72.

§ 58.1 Definitions.

As used in these rules and regulations:

(a) "Act" means title IV of the Social Security Act as amended by Public Law 92–223, December 28, 1971.

(b) "AFDC" (Aid to Families with Dependent Children) means a program authorized by title IV of the Social Security Act to provide financial assistance and social services to needy families with children.

(c) "DOL" means the U.S. Department of Labor.

(d) "Exempt" means an AFDC recipient who is not legally required to register for employment or training under the WIN program.

(e) "NRP" means National Review Panel which is comprised of the DOL Chief Administrative Law Judge and eight (8) Administrative Law Judges appointed pursuant to Administrative Procedure Act requirements and designated by the Chief Judge to serve as members of the panel.

(f) "Participant" means a registrant who has been appraised and for whom an employability plan has been initiated by local WIN project and Separate Administrative Unit staff.

(g) "Registrant" means an AFDC recipient who has registered for manpower services, training, and employment as provided by the Act.

(h) "Registration" means the process whereby an AFDC applicant or recipient signs a completed registration card.

(i) "Secretary" means the Secretary of Labor.

(j) "State agency administering hearings in that State" means that State agency which is responsible for the hearings conducted by State hearing officers, State welfare hearing officers, and the State appellate body.

(k) "State appellate body" means the body provided by the State WIN sponsor or State welfare agency to review decisions of the hearing officer.

(l) "State hearing officer" means the hearing officer provided by the State WIN sponsor to hear and decide disputes arising out of (1) registrants'/participants' refusal or failure to accept employment or to participate in a work incentive program without good cause and (2) of exemption redeterminations of previously registered individuals.

(m) "State welfare hearing officer" means the hearing officer provided by the State welfare agency, as agent of DOL, to hear and decide disputes arising out of initial registration and nonexemption determinations under section 402(a)(19)(A) of the Act.

(n) "WIN" means the Work Incentive Program.

(o) "WIN sponsor" means the State Employment Service or other public or nonprofit private agency with which the Regional Manpower Administrator for the DOL contracts to administer the WIN program at the State or local level.

§ 58.2 Appeals where State does not provide for an appellate procedure.

Pursuant to §§ 57.8 and 57.9(c)(1) of this subtitle the NRP shall consider and decide appeals from State hearing officer or State welfare hearing officer decisions filed directly with it by aggrieved individuals, WIN project sponsors, or State welfare agencies where the State does not provide for an appellate procedure.

(a) *Who may appeal.* Any individual who is a party to the proceeding and is adversely affected by the decision, WIN project sponsors, or, State welfare agencies may appeal from State hearing officer decisions where the dispute arises out of a refusal or failure to accept employment or to participate in a work incentive program without good cause or out of an exemption redetermination. The same parties may appeal from State welfare hearing officer decisions concerning disputes arising out of initial registration and exemption determinations under section 402(a)(19)(A) of the Act.

(b) *Contents of the appeal.* The appeal must be in writing and may be in the form of a letter addressed to the National Review Panel or may be submitted on forms supplied with the State hearing officer or State welfare officer decision. It should contain a statement of reasons in support of the appeal. While such statement may be brief, it must be more than a mere statement that appellant disagrees with the hearing officer's decision. The hearing officer's decision should be attached to the appeal.

(c) *Time of filing.* The appeal must be filed within fifteen (15) days following the date of service of the hearing officer's written decision. An appeal filed by persons residing in the Commonwealth of Puerto Rico, the Virgin Islands, or Guam shall be filed within thirty (30) days following the date of service of the hearing officer's written decision.

(d) *Place of filing and number of copies.* The appeal from the hearing officer's decision shall be sent to the National Review Panel, U.S. Department of Labor, Washington, D.C. 20210. Whenever possible, a copy of the appeal should be sent or delivered to all other parties to the proceeding, including the State agency administering hearings in that State, and the appeal should list the names and addresses of the persons to whom copies were sent or delivered.

(e) *Response to appeal.* Any other party to the proceeding who wishes to respond to the appeal or comment thereon may send a response to the National Review Panel, U.S. Department of Labor, Washington, DC 20210, in support of or in opposition to the appeal. The response must be sent within seven (7) days after having received notification that an appeal has been filed. The response should contain a full statement of reasons in support of the position taken by the party filing the response. Whenever possible a copy of the response should be sent to all other parties to the proceeding, including the State agency administering hearings in that State.

(f) *Certification of the record.* Within fifteen (15) days of the filing of an appeal, the State agency administering hearings shall certify and file with the NRP the transcript of the hearing in writing together with all documents and exhibits and a copy of the hearing officer's decision. The State agency shall prepare and include an index of the documents transmitted and shall immediately serve a copy of the index on all parties to the proceeding.

§ 5.83 Appeals from State appellate bodies.

Pursuant to § 57.9(c)(4) of this subtitle the NRP at its discretion may consider and decide appeals from decisions of State appellate bodies. The NRP will grant an application that it review such decisions only where compelling reasons exist, including, but not limited to, situations where the case raises novel or substantial issues of law or policy.

(a) *Who may request review.* Any individual who is a party to the proceeding and is adversely affected by the decision; the WIN project sponsor; or, the State welfare agency may file a request for review of decisions of State appellate bodies.

(b) *Contents of the request for review.* The request that the National Review Panel review the decision of a State

appellate body must be in writing and should contain a statement of reasons in support of the request for review. While such statement may be brief, it must be more than a mere statement that appellant disagrees with the State appeals decision. A copy of the hearing officer's decision and the State appeals decision should be attached to the request for review.

(c) *Time of filing.* The request for review must be filed within fifteen (15) days following the date of service of the State appellate body's written decision. A request for review filed by persons residing in the Commonwealth of Puerto Rico, the Virgin Islands, or Guam shall be filed within thirty (30) days following the date of service of the appellate body's written decision.

(d) *Place of filing and number of copies.* The request for review should be sent to the National Review Panel, U.S. Department of Labor, Washington, DC 20210. Whenever possible a copy of the request for review should be sent or delivered to all other parties to the proceeding, including the State agency administering hearings in that State, and the appeal should list the names and addresses of the persons to whom copies were sent and delivered.

(e) *Response to request for review.* Any other party to the proceeding who wishes to respond to the request for review or to comment thereon may file a response with the National Review Panel, U.S. Department of Labor, Washington, DC 20210, in support of or in opposition to the request for review. The response must be sent within seven (7) days after having received notification that a request for review has been filed. The response should contain a full statement of reasons in support of the position taken by the party filing the response. Whenever possible, a copy of the response should be sent to all other parties to the proceeding, including the State agency administering hearings in that State.

(f) *Certification of record.* Upon written request to it from the NRP the State appellate body, within fifteen (15) days of the receipt of the request, shall certify and file with the NRP a complete record of the proceedings below including the transcript in writing of the hearing before the hearing officer together with all documents and exhibits; a copy of the hearing officer's decision; a copy of the decision of the State appellate body; and, any other papers and documents relevant to the proceedings. The State appellate body shall prepare and include an index of the documents transmitted and shall serve immediately a copy of said index on every other party to the proceeding before the State appellate body.

§ 58.4 Request for NRP to accept certification.

Pursuant to § 57.9(c)(2) of this subtitle the NRP, at its discretion, may consider and decide cases certified to it by State appellate bodies, or in the absence of a State appellate body, by the State hearing officer or State welfare hearing officer, because the case involves novel questions of law or policy.

(a) *Who may request the NRP to accept certification.* The State appellate body, or, in the absence of a State appellate body, the State hearing officer or State welfare hearing officer may file a request that the NRP accept certification of a case.

(b) *Contents of request for certification.* The request must contain the following:

(1) A concise statement of the novel question of law or policy which is the basis for the request to accept certification;

(2) A brief summary of the relevant facts and evidence;

(3) Pertinent rulings, conclusions, and decisions by the hearing officer and/or the appellate body, as the case may be; and

(4) All reasons and arguments in support of the request, including citation of applicable laws and case decisions.

A copy of any written decisions by the hearing officer or appellate body must be attached to the request.

(c) *Time of filing.* A request for the NRP to accept certification shall be filed as follows:

(1) By the State appellate body within five (5) days following issuance of its written decision.

(2) In the absence of a State appellate body, by the State hearing officer or Statewelfare hearing officer within five (5) days after issuance of his written decision.

(d) *Place of filing and number of copies.* The party filing a request to the NRP to accept certification of a case shall file the original and three (3) copies with the NRP, the National Review Panel, U.S. Department of Labor, Washington, DC 20210, and simultaneously shall serve copies on every other party to the proceeding, including the State agency administering hearings in that State.

(e) *Response to request that NRP accept certification.* Any party to the proceeding who wishes to respond to the request or to comment thereon may file a response with the NRP in support of or in opposition to the request. The response should contain a statement of all reasons in support of the position taken by the party filing the response and should be sent to the National Review Panel, U.S. Department of Labor, Washington, DC 20210, within seven (7) days following service of a request that the NRP accept certification. Whenever possible, a copy of the response shall be served on all parties to the proceeding, including the State agency administering hearings in that State.

(f) *Certification of the record.* Upon receipt of written notice from the NRP that it has accepted certification of the case the State appellate body or the hearing officer, whichever is applicable, within fifteen (15) days of receipt of the notification, shall certify and file with the NRP a complete record of the proceedings below including the transcript in writing of the hearing before the hearing officer together with all documents and exhibits; a copy of the hearing officer's decision; where appropriate, a copy of the decision of the State appellate body; and, any other papers and documents relevant to the proceedings. The State appellate body or hearing officer, whichever is applicable, shall prepare and include an index of the documents transmitted and shall serve immediately a copy of said index on every party to the proceeding.

§ 58.5 Review by NRP of cases certified at its request.

Pursuant to § 57.9(c)(3) of this subtitle the NRP may consider and decide cases which it, on its own motion, has requested a State appellate body, or in the absence of a State appellate body, the State hearing officer or State welfare hearing officer after he had issued his decision, to certify to it.

(a) *Basis of request to certify.* When the NRP considers a case to raise novel or substantial issues of law or policy or that it be in the interest of justice to do so, it may request that a case be certified to it.

(b) *Contents of request and time for filing.* Requests by the NRP for certification of a case to it shall be made no later than thirty (30) days after issuance of a written decision by the State appellate body or hearing officer, whichever is applicable. The request to certify shall be in writing and shall be served on the State appellate body or hearing officer, whichever is applicable, on the State agency administering hearings in that State, and on all parties to the proceeding.

(c) *Briefs.* In all cases, any party to a proceeding may file briefs with the NRP in support of its position. The NRP, if it deems it necessary to its consideration of a particular case, may request briefs from all the parties.

(d) *Time for briefs.* Briefs should be filed within ten (10) days from the date of service by the NRP of its request that a case be certified to it. However, in cases where the NRP itself requests briefs, a different time limit may be established by the NRP. Wherever possible, an original and three (3) copies of the brief should be filed with the National Review Panel, U.S. Department of Labor, Washington, DC 20210. At the same time, one (1) copy of the brief should be served on all parties to the proceeding, including the State agency administering hearings in that State.

(e) *Certification of record.* Within fifteen (15) days of receipt of the request to certify a case to the NRP, the State appellate body or hearing officer, whichever is applicable, shall certify and file with the NRP a complete record of the proceedings below and including the transcript in writing of the hearing before the hearing officer together with all documents and exhibits; a copy of the hearing officer's decision; a copy of the

decision of the State appellate body, where applicable; and, any other papers and documents relevant to the proceedings. The State appellate body or hearing officer, whichever is applicable, shall prepare and include an index of the documents transmitted and immediately shall serve a copy of said index on all parties to the proceedings.

§ 58.6 Consideration by and decisions of the NRP.

In considering appeals before it, the NRP may sit in panels of three members. The Chief Administrative Law Judge, DOL, may designate any Administrative Law Judge employed by DOL to review or hear a particular case and to submit his findings and recommendations to the NRP or any duly designated panel thereof.

(a) In considering appeals before it the NRP, a duly designated panel thereof, or the designated Administrative Law Judge may request the parties to submit additional written statements of position, hear oral argument or hold additional hearings where deemed necessary in the interests of justice.

(b) *Hearing or oral presentation.*

(1) Any party to an appeal may make application in writing for a hearing or oral presentation before the NRP. Such application shall set forth the reasons in support thereof and be made within five (5) days of:

(i) Service of notification of the filing of an appeal from the decision of a State hearing officer where the State does not provide for an appellate body; or

(ii) Service of notification that the NRP at its discretion has accepted an appeal from the decision of a State appellate body; or

(iii) Service of notification that the NRP has accepted certification of a case whether at its request or upon the application of a State appellate body or hearing officer.

(2) If a hearing or oral argument is directed, the notice thereof shall state the date, time, place, nature, and purpose of the hearing or oral argument. Such notice shall be served on the appellant and all other parties to the proceeding.

(3) At any hearing or oral argument so ordered, the NRP, the designated NRP panel, or the designated Administrative Law Judge may require or direct any party or person to appear to testify or produce evidence.

(4) Any party to the proceeding may appear personally or be represented by an attorney or agent.

(5) If a hearing is directed before an Administrative Law Judge, the findings and recommendations of the Administrative Law Judge designated to conduct the hearing shall be served on the appellant and all other parties to the proceeding. All parties may file with the NRP written exceptions and brief in support thereof within ten (10) days of service of the Administrative Law Judge's findings and recommendations and shall at the same time serve copies of such exceptions and brief on all other parties to the proceeding. Any exceptions filed shall refer to specific findings and recommendations of the Administrative Law Judge.

(c) *Decisions by the National Review Panel.* The NRP shall prepare as expeditiously as possible a written decision setting forth its findings, the reasons for its conclusions, and an appropriate order. The decision shall be based on the record below and any additional evidence submitted to or obtained by the NRP. The decision may consist of affirmance, reversal, remand for further development of the evidence, or other appropriate action. Copies of NRP decisions, including notification that the NRP has denied a request that it review a decision of a State appellate body and notification that NRP has accepted certification of a case, shall be served on all parties to the proceeding and such other persons as may be appropriate.

§ 58.7 Service and filing of papers.

In promulgating these rules of practice, the National Review Panel has attempted to protect the rights of those appellants who may be unable, for financial reasons or otherwise, to comply with the normal requirements of serving multiple copies of documents on the NRP and parties to the proceeding. It is with this in mind that the phrase "wherever possible" is used throughout these rules of practice when referring to service of copies. The speedy administration of justice will be assisted immeasurably, however, if all parties to these proceedings adhere to the service requirements set forth herein.

(a) *Manner of service.* All papers and documents, including appeals, requests for review, requests for NRP to accept certification, motions, briefs, exceptions, responses, NRP decisions, rulings and notices, may be served in the following manner: Personally; by registered mail; by certified mail; by telegraph; by leaving a copy thereof at the principal office, place of business, or residence, of the person to be served; or in any manner provided for the service of papers in the State in which the proceeding arose. Of the foregoing, service by registered mail is generally preferable. However, service by regular mail also shall be deemed acceptable, absent a showing of prejudice by any other party, and where the timeliness of mailing is not a material issue.

(b) *Date of service.* The date of service shall be the day when the material served is deposited in the United States mail or is delivered in person, as the case may be. In computing the time from such date, the provisions of paragraph (e) of this section apply.

(c) *Proof of service.* When service is made by certified or registered mail, the return post office receipt shall be proof of service. When service is made in another manner provided by State law, proof of service shall be made in accordance with such State law. The person or party serving documents on other parties in conformance herewith shall submit with the document a written statement of service thereof to the NRP stating the names of the parties served and the date and manner of service. Such proof of service shall be required by the NRP only if subsequent to the receipt of the statement of service a question is raised with respect to proper service. Failure to make proof of service does not affect the validity of the service.

(d) *Service on attorneys and representatives.* Whenever these rules require or permit the service of any papers upon a party, a copy shall also be served on any attorney or other representative of the party who has entered a written appearance in the proceeding on behalf of the party. If a party is represented by more than one attorney or representative, service upon any one of such persons in addition to the party shall satisfy this requirement.

(e) *Computation of time; additional time after service by mail or by telegraph.* The computation of periods of time is based on "calendar" days and not "workdays," unless otherwise stated.

(1) In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so provided is to be included unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day, which is neither a Saturday, Sunday nor a legal holiday.

(2) When the period of time provided is less than seven (7) days, intermediate Saturdays, Sundays, and holidays shall be excluded from the computation.

(3) Whenever a period of time is provided herein to take some action following service of a notice or some other paper and the notice or paper is served by mail or by telegraph, three (3) days shall be added to the prescribed period.

(4) All documents to be served on the NRP, including appeals, requests for review, requests for NRP to accept certification of a case, motions, briefs, exceptions, or other papers in any proceeding, must be received by the NRP or its agent designated to receive such matter before the close of business of the last day of the time limit provided.

§ 58.8 Motions.

All motions shall be in writing and filed with the National Review Panel, U.S. Department of Labor, Washington, DC 20210. Whenever possible, a copy of the motion should be filed with all other parties to the proceeding.

§ 58.9 Intervention.

Any person desiring to intervene in any proceeding shall file a motion in writing with the National Review Panel, U.S. Department of Labor, Washington, DC 20210, within seven (7) days of the date on which the NRP has notified the parties of receipt of an appeal, request for review, or request for certification, or has notified the parties that the NRP

itself has requested certification. The request for intervention must state the grounds upon which such person claims an interest. The NRP may permit intervention in person or by counsel or other representative to such extent and upon such terms as it may deem proper.

§ 58.10 Amicus curiae.

The NRP, upon petition of an interested person and as it deems appropriate, may grant permission for the filing of a brief and/or oral argument by an amicus curiae and the parties shall be notified of such action by the NRP.

§ 58.11 Representation.

An individual may represent himself or be represented upon satisfactory proof of authorization, by legal counsel or by other spokesmen of his choice in any proceeding arising out of section 402(a)(19)(A) or part C of the Act.

§ 58.12 Right to examine transcripts.

Testimony at hearings conducted by State agencies shall be mechanically recorded. It shall be transcribed only as needed or when the hearing officer's decision is to be reviewed by an appellate body in the State or by the NRP. Parties shall have the right to examine, upon request, a copy of the transcript during normal working hours at the local office of the WIN agency, if it has a copy, or at a place designated by the agency conducting these hearings in the State.

§ 58.13 Finality of decisions.

The National Review Panel is the highest level of administrative appeal and its decision shall be the final decision of the Secretary in all cases considered and received by it. Final decisions of the Secretary shall be binding on all affected parties as to the subject matter reviewed and shall not be subject to review by any other Federal or State agency, or hearing officer.

Signed at Washington, D.C., this 17th day of November 1972.

H. STEPHAN GORDON,
Chairman, National Review Panel Work Incentive Program.

[FR Doc.72-20478 Filed 11-28-72;8:51 am]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 16, Amdt. 99-5]

PART 99—EMPLOYEE RESPONSIBILITIES

List of Persons Required To File Financial Statements

The purpose of this amendment to Part 99 is to revise Appendix C—List of Employees Required to Submit Statements of Employment and Financial Interest, Under § 99.735-31, to add to the list the position of Motor Carrier Safety Investigator, GS-9/12.

Motor carrier safety investigators of the Federal Highway Administration are vested with the authority to place defective vehicles out of service. Such action by the investigators, often working without individual supervision, can result in a substantial economic impact on the motor carrier and driver. Ordinarily no employee below the grade of GS-13 is required to submit a statement of employment and financial interest. Because of the special nature of the investigators' functions, the requirement is being applied to them. Since this is a deviation from past practice, however, the Department will review the situation within one year to determine whether the statements required from the investigators are serving to prevent or correct any problems.

Part 99 was issued to implement Executive Order 11222 and Part 735 of the Civil Service Commission regulations and each amendment must be approved by the Commission before issuance. This amendment was approved by the Civil Service Commission on September 13, 1972.

Since this amendment relates to Departmental management, procedures, and practices, notice and public procedure thereon are not required, and it may be effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 99 of Title 49 of the Code of Federal Regulations is amended, effective November 22, 1972, by revising Appendix C to add to the list under "IV. Federal Highway Administration, Field Installations", the following:

Motor Carrier Safety Investigator, GS-9/12.

(Executive Order 11222 (30 F.R. 6469), sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C., on November 22, 1972.

JAMES M. BEGGS,
Acting Secretary of Transportation.

NOVEMBER 22, 1972.

[FR Doc.72-20442 Filed 11-28-72;8:47 am]

Chapter I—Department of Transportation

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-96; Amdts. 172-17, 173-67]

PART 172—COMMODITY LIST OF HAZARDOUS MATERIALS CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 170-189 OF OF THIS CHAPTER

PART 173—SHIPPERS

Etiologic Agents; Postponement of Effective Date

On September 30, 1972, the Hazardous Materials Regulations Board published Amendments 172-17 and 173-67 in Docket No. HM-96 establishing requirements for the shipment of etiologic agents (37 F.R. 20554).

Numerous petitions for reconsideration have been received by the Board because the regulation does not permit the shipment of cultures of etiologic agents on passenger-carrying aircraft. The Board has reviewed these petitions, and on the basis of the arguments for change presented to it, has proposed a modification of the regulations. See page 25243 of this FEDERAL REGISTER for the text of the Board's proposed change.

Since the Board's action cannot be completed by December 30, 1972, the previously specified effective date of the subject regulation, the Board has changed the mandatory effective date for Amendments 172-17 and 173-67 from December 30, 1972 to March 31, 1973. However, voluntary compliance continues to be authorized.

Issued in Washington, D.C., on November 24, 1972.

ALAN I. ROBERTS,
Secretary.

[FR Doc.72-20476 Filed 11-28-72;8:50 am]

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 71-21; Notice 4]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices and Associated Equipment

This notice amends 49 CFR 571.108, *Standard No. 108; Lamps, Reflective Devices, and Associated Equipment,* to specify minimum photometric-candlepower requirements for motorcycle turn signal lamps.

Standard No. 108 was amended on October 7, 1972 (37 F.R. 21328), effective January 1, 1973, to specify, in part, that turn signal lamps are not required to meet the minimum photometric values at each test point specified in table 2 of SAE Standard J575d, "Tests for Motor Vehicle Lighting Devices and Components," if the sum of the candlepower measured at the test points within the groups listed in figure 1 is not less than the sum of the candlepower values for such test points specified in J575d. Effective January 1, 1973, Class B turn signal lamps are required on motorcycles, and the minimum photometric candlepower values for such lamps are one-half those required for Class A turn signals. The amendment failed to make this distinction, and this notice corrects the omission.

In consideration of the foregoing, paragraph S4.1.1.12 of 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, is amended to read as follows:

S4.1.1.12 A tail lamp, stop lamp, or turn signal lamp is not required to meet the minimum photometric values at each test point specified in Table 2 of SAE Standard J575d, "Tests for Motor Vehicle Lighting Devices and Components," if

the sum of the candlepower measured at the test points within the groups listed in Figure 1 is not less than the sum of the candlepower values for such test points specified in J575d, or, for motorcycle turn signal lamps, one-half of such sum. A lamp with two or three lighted compartments, or a lamp that is part of an array of two or three lamps used in a single design location to perform a single function, manufactured from January 1, 1973 to September 1, 1974, need only meet the group value total specified in Figure 1 for single compartment or single lamps.

Effective date: January 1, 1973. Because the amendment creates no additional burden it is found for good cause shown that an effective date earlier than 180 days after issuance is in the public interest.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407; Delegation of authority from the Secretary of Transportation to the National Highway Traffic Safety Administrator, 49 CFR 1.51)

Issued on November 21, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-20446 Filed 11-28-72;8:48 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Second Rev. S.O. 1105, Amdt. 1]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 22d day of November 1972.

Upon further consideration of Service Order No. 1105 (37 F.R. 22377), and good cause appearing therefor:

It is ordered, That: § 1033.1105 *Service Order No. 1105* (Distribution of Boxcars) be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20500 Filed 11-28-72;8:52 am]

[S.O. 1107, Amdt. 1]

PART 1033—CAR SERVICE

Lehigh Valley Railroad Co. Authorized To Operate Over Tracks of Penn Central Transportation Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 20th day of November 1972.

Upon further consideration of Service Order No. 1107 (37 F.R. 16549), and good cause appearing therefor:

It is ordered, That: § 1033.1107 *Service Order No. 1107* (Lehigh Valley Railroad Co., John F. Nash and Richard C. Haldeman, trustees, authorized to operate over tracks of Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 28, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20501 Filed 11-28-72;8:52 am]

[Rev. S.O. 1110, Amdt. 2]

PART 1033—CAR SERVICE

Penn Central Transportation Co. Required To Restore Service at the Buttonwood (Wilkes-Barre), Pennsylvania, Gateway

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 22d day of November 1972.

Upon further considerationof Revised Service Order No. 1110 (37 F.R. 19616 and 22871), and good cause appearing therefor:

It is ordered, That: § 1033.1110 *Revised Service Order No. 1110* (Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees, required to restore service at the Buttonwood (Wilkes-Barre), Pa., gateway and to reroute traffic originally routed via that gateway) be, and it is hereby, amended by substituting the following paragraphs (a) and (e) for paragraphs (a) and (e) thereof:

(a) The Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees (Penn Central) be, and it is hereby, ordered to restore service via its p.m., September 15, 1972, and, as to paraway on or before December 29, 1972.

* * * * *

(e) *It is further ordered,* That this order shall become effective at 11:59 p.m., Septemer 15, 1972, and, as to paragraph 1033.1110(b), shall expire at 11:59 p.m., December 29, 1972, unless sooner vacated by order of this Commission upon restoration of service through the Buttonwood (Wilkes-Barre) gateway.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20499 Filed 11-28-72;8:52 am]

[S.O. 1111, Amdt. 2]

PART 1033—CAR SERVICE

Delaware and Hudson Railway Co. Authorized To Operate Over Tracks of Erie Lackawanna Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 22d day of November 1972.

Upon further consideration of Service Order No. 1111 (37 F.R. 19617 and 22872), and good cause appearing therefor:

It is ordered, That: § 1033.1111 *Service Order No. 1111* (Delaware and Hudson Railway Co. authorized to operate over tracks of Erie Lackawanna Railway Co., Thomas F. Patton and Ralph S. Tyler, Jr., Trustees) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 29, 1972, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 25, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20498 Filed 11-28-72;8:52 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Department of the Interior

PART 33—SPORT FISHING

Audubon National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-29-72).

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

NORTH DAKOTA

AUDUBON NATIONAL WILDLIFE REFUGE

Lake Audubon, within Audubon National Wildlife Refuge is open to all fishing December 16, 1972, through March 25, 1973, and is closed from March 26 through December 15, 1973.

Sport fishing on the Audubon National Wildlife Refuge, Coleharbor, N. Dak., is permitted on all water areas throughout the refuge. The water area, comprising 5,900 acres is delineated on maps available at refuge headquarters or at the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(1) The open season for sport fishing on the refuge extends from December 16, 1972, through March 25, 1973, inclusive.

The provision of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through March 25, 1973.

DAVID C. MCGLAUCHLIN,
Refuge Manager, Audubon National Wildlife Refuge, Coleharbor, N. Dak.

NOVEMBER 21, 1972.

[FR Doc.72-20490 Filed 11-28-72;8:52 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 58]

NONFAT DRY MILK, SPRAY AND ROLLER PROCESS

Proposed Standards for Grades; Grade Not Assignable

Notice is hereby given that the U.S. Department of Agriculture is considering the issuance as hereinafter provided, of amendments to the U.S. Standards for Grades of Nonfat Dry Milk (Spray and Roller Process). This grade standard is issued under authority of the Agriculture Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621) which provides for the issuance of official U.S. Grades to designate different levels of quality for the voluntary use of producers, buyers and consumers. Official grading service is provided under this Act upon request of the applicant and upon payment of a fee to cover the cost of the service.

The proposed amendments provide under Subparts L and M, §§ 58.2529 and 58.2554, respectively, "U.S. Grade Not Assignable" for a reduction in the direct microscopic bacterial count level of nonfat dry milk from 150 to 100 million per gram on which a U.S. grade will be assigned.

Statement of consideration. In 1969, an amendment was issued to the U.S. Standards for Grade of Nonfat Dry Milk (Spray and Roller Process) lowering the maximum level for which a U.S. grade would be assigned from 200 million to 150 million.

Since that time, records on nonfat dry milk graded by USDA, which represent about 53 percent of U.S. production, have shown improvements in the quality of milk used for manufacturing purposes and in processing methods. Nonfat dry milk graded by USDA shows a decrease in the numbers of carlots which exceed 100 million. The amount exceeding this figure was 2.6 percent of the total nonfat dry milk graded from October 1969 to September 1972. This percentage compares very favorably with the 3.5 percent that exceeded 150 million in the period studied from 1966 to 1968 when the last reduction was made in 1969.

It is the opinion of USDA that another reduction in the direct microscopic bacterial count level will further improve the quality of nonfat dry milk and recognize the efforts of those in industry who have been moving forward in quality improvement of the milk supply and processing methods.

Announcing the proposal at this time with a proposed effective date of April 1, 1973, will give industry sufficient time for compliance.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same in duplicate with the Hearing Clerk, Room 112, Administration Building, Washington, D.C. 20250, not later than 60 days from the date of publication in the FEDERAL REGISTER. All written submissions pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments are as follows:

1. Change Subpart L, § 58.2529 U.S. Grade not assignable, to read as follows:

§ 58.2529 U.S. Grade not assignable.

Nonfat dry milk which fails to meet the requirements for U.S. Standard Grade and/or shows a direct microscopic clump count exceeding 100 million per gram shall not be assigned a U.S. grade.

2. Change Subpart M, § 58.2554, U.S. Grade not assignable, to read as follows:

§ 58.2554 U.S. Grade not assignable.

Nonfat dry milk which fails to meet the requirements for U.S. Standard Grade and/or shows a direct microscopic clump count exceeding 100 million per gram shall not be assigned a U.S. grade.

Effective date. It is proposed that these amendments shall become effective April 1, 1972.

Done at Washington, D.C., this 24th day of November 1972.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.72-20511 Filed 11-28-72;8:53 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 812]

SUGAR IN HAWAII AND PUERTO RICO

Proposed Requirements and Quotas for Local Consumption for Calendar Year 1973

Notice is hereby given that the Administrator, Agricultural Stabilization and Conservation Service, pursuant to authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended; 7 U.S.C. 1101), is considering the determination of sugar requirements and the establishment of quotas for local consumption in Hawaii and Puerto Rico for the calendar year 1973.

In accordance with the rule making requirements in 5 U.S.C. 553, all persons who desire to submit written data, views, or arguments for consideration in connection with the proposed regulation may file the same in duplicate with the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, DC 20250, on or before December 18, 1972. All written submissions made pursuant to this notice will be made available for public inspection at such time and places and in a manner convenient to the public business (7 CFR 1.27(b)).

The proposed determination of sugar requirements and quotas for Hawaii and Puerto Rico for the calendar year 1973, set forth in form and language appropriate for issuance if adopted by the Secretary, is as follows:

Basis and purpose. The purpose of Sugar Regulation 812 is to determine pursuant to sections 201 and 203 of the Sugar Act of 1948, as amended (hereinafter referred to as the "Act"), the amount of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico and to establish quotas for local consumption in such areas for the calendar year 1973. To the extent required by section 201 of the Act, this regulation establishes sugar requirements based on official estimates of the Department of Agriculture and on statistics published by other agencies of the Government.

Since the Act provides that the Secretary of Agriculture determine sugar requirements for local consumption in Hawaii and in Puerto Rico and establish local consumption quotas to be effective on January 1, 1973, it is found to be impracticable and not in the public interest to comply with the 30-day effective date requirements in 5 U.S.C. 553(d) (80 Stat. 378), and these regulations shall be effective January 1, 1973.

Sec.
812.1 Sugar requirements and quota—Hawaii.
812.2 Sugar requirements and quota—Puerto Rico.
812.3 Restrictions on marketing.

AUTHORITY: The provisions of these §§ 812.1 through 812.3 issued under sec. 403, 61 Stat. 932; 7 U.S.C. 1153, secs. 201, 203, 209, 211, 61 Stat. 923, as amended, 925, 928; 7 U.S.C. 1111, 1113, 1119, 1121.

§ 812.1 Sugar requirements and quota—Hawaii.

It is hereby determined, pursuant to section 203 of the Act, that the amount of sugar needed to meet the requirements of consumers in Hawaii for the calendar year 1973 is 50,000 short tons, raw value, and a quota of 50,000 short tons, raw value, is hereby established for Hawaii for local consumption for the calendar year 1973.

§ 812.2 Sugar requirements and quota—Puerto Rico.

It is hereby determined, pursuant to section 203 of the Act, that the amount of sugar needed to meet the requirements of consumers in Puerto Rico for the calendar year 1973 is 140,000 short tons, raw value, and a quota of 140,000 short tons, raw value, is hereby established for Puerto Rico for local consumption for the calendar year 1973.

§ 812.3 Restrictions on marketing.

Pursuant to section 209 of the Act, for the calendar year 1973 all persons are hereby prohibited from marketing, pursuant to Part 816 of this chapter (33 F.R. 8495), in Hawaii or in Puerto Rico, for consumption therein, any sugar or liquid sugar after the quota for the area for the calendar year 1973 has been filled. Pursuant to section 211(c) of the Act, the quota for each area may be filled only with sugar produced from sugarcane grown in the respective area, except as provided in section 204(c). Furthermore, pursuant to section 211(c) of the Act, sugar may be unladed from a carrier and brought into a foreign trade zone for manipulating therein or manufacturing therein another product for the subsequent entry into Hawaii or Puerto Rico for consumption only if such sugar is charged, pursuant to S.R. 816, to the applicable respective local quota.

Statement of bases and consideration. Pursuant to section 203 of the Act, the determination of the amounts of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico relate to (1) the quantities of sugar distributed for local consumption in Hawaii and in Puerto Rico during the 12-month period ended September 30, 1972, (2) deficiencies or surpluses in inventories of sugar, and (3) changes in consumption because of changes in population and demand conditions.

The quantities of sugar distributed for consumption in Hawaii and in Puerto Rico, including that which was lost in refining after charge to the local quotas, during such 12-month period are estimated to have been approximately 38,000 short tons of sugar, raw value, and 125,000 short tons of sugar, raw value, respectively.

Based on the latest U.S. Census data available, the population of Hawaii as of July 1, 1972, was 809,000 and the population of Puerto Rico as of April 1, 1970, was 2,712,000.

In Hawaii industrial use accounts for a substantial portion of the total consumption of sugar and this demand is a significant factor in the total sugar requirements. During the period 1962 through 1972 the annual sugar consumption in this area has varied from approximately 92.3 to 130.0 pounds, raw value, per person. These wide year-to-year variations suggest the possibility that requirements could be higher in 1973 than in the 12 months ended September 30, 1972, when sugar marketings approximated 38,000 short tons, raw value.

In Puerto Rico during the 12 months ended September 30, 1972, marketings of sugar for local consumption totaled approximately 125,000 short tons, raw value. After making allowance for possible consumption increases in 1973 resulting from probable population increases, the total sugar needed to meet requirements for local consumption in Puerto Rico in 1973 may be approximately 140,000 short tons, raw value.

Circumstances prevailing in the utilization of quota for local consumption in Hawaii and Puerto Rico are such that no special problems arise nor are the objectives of the Act jeopardized if the 1973 local quotas are not completely filled. It is, therefore, desirable to establish the 1973 requirements and quotas sufficiently high initially so that later adjustments may be avoided.

In accordance with the above, the requirements for local consumption in Hawaii and Puerto Rico for 1973 have been determined to be 50,000 and 140,000 short tons, raw value, respectively.

Signed at Washington, D.C., on November 22, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-20467 Filed 11-28-72;8:51 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

[15 CFR Part 7]

UPHOLSTERED FURNITURE

Notice of Finding That Flammability Standard or Other Regulation May Be Needed and Institution of Proceedings

Finding. Pursuant to section 4(a) of the Flammable Fabrics Act, as amended (Sec. 3, 81 Stat. 569; 15 U.S.C. 1193) and § 7.5 of the Flammable Fabrics Act Procedures (33 F.R. 14642, October 1, 1968), and upon the basis of investigations or research conducted pursuant to section 14 of the Flammable Fabrics Act, as amended (sec. 10, 81 Stat. 573; 15 U.S.C. 1201), it is hereby found that a flammability standard or standards, or other regulation, including labeling, may be needed for upholstered furniture, and fabrics or related materials intended to be used, or which may reasonably be expected to be used, in these products, to protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage.

There now exists no national flammability standard for upholstered furniture affording the general public protection from an unreasonable risk of fire. Upholstered furniture, therefore, may be produced and made available for consumer purchase which through ordinary use would present such foreseeable hazards as continuous slow burning or smoldering and the resultant production of smoke or toxic atmospheres leading to death, injury, or significant property damage.

Bases for Need. A detailed analysis of the 130 upholstered furniture ignition incidents in the National Bureau of Standards' Flammable Fabrics Accident Case and Testing System (FFACTS) in April 1972 indicates the following:

a. The ignition sequence was known in 114 of the 130 incidents. Upholstered furniture was the first product ignited in 93 (81 percent) of these 114 incidents.

b. Of the 118 individuals directly involved in the 130 incidents, 74 were injured.

c. Thirty-three of these 74 individuals died as a result of their injuries.

d. Of the 118 persons directly involved, 91 persons became involved because of their own or someone else's smoking.

e. Cigarettes (77.9 percent) and unknown smoking materials (8.1 percent) were the ignition sources in 74 of the 86 incidents in which upholstered furniture was the first product ignited and the ignition source was known. In seven of the 93 incidents in which upholstery was the first to ignite the ignition source was unknown.

In addition to the foregoing, data obtained from public safety organizations and State and local fire departments indicate that upholstered furniture fires constitute an important category of fabric fires and cause major injury and economic losses. A study conducted between 1966 and 1968 by the National Fire Protection Association has indicated that smoking on upholstered furniture was responsible for over 16 percent of the single fatality nonclothing fires studied, for which the causes of ignition were known and stated. ("Single Fatality Fire," an NFPA Fire Record Department Study, "Fire Journal," January 1969.)

In a 1970 report on fires in Oregon involving furniture, furnishings, and clothing where loss occurred, bedding and upholstery material were the initial material ignited in 60.9 percent of the cases; upholstered furniture was the first material ignited in over 23 percent of these cases, with the remaining 37.5 percent attributed to mattresses or bedding ignitions. (Annual Statistical Report for the Calendar Year 1970—published in 1971, C. Walter Stickney, State Fire Marshal, Salem, Oreg.) In a New York State report, bedding and furniture fabric ignitions constituted 59 percent of the cases involving casualties and 52.6 percent of the reported fabric ignition death cases. Of these New York statistics, furniture fabric and furnishings accounted for 21.9 and 17.5 percent of the cases resulting in injuries and deaths, respectively, with the remainder of the cases attributed to bedding ignitions. (New York State Department of Health Burns Care Institute—Prevention Program "Reported Flammable Fabrics Episodes, 1967–1971".)

Institution of proceedings.—Pursuant to section 4(a) of the Flammable Fabrics

Act, as amended (sec. 3, 81 Stat. 569; 15 U.S.C. 1193) and 7.6(a) of the Flammable Fabrics Act Procedures (33 F.R. 14642, October 1, 1968), notice is hereby given of the institution of proceedings for the development of an appropriate flammability standard or standards, or other regulation, including labeling, for upholstered furniture, and fabrics or related materials intended to be used, or which may reasonably be expected to be used, in these products.

Participation in Proceedings.—All interested persons are invited to submit written comments or suggestions within 30 days after the date of publication of this notice in the FEDERAL REGISTER relative to (1) the above finding that a new flammability standard or standards, or other regulation, including labeling, may be needed; and (2) the terms or substance of a flammability standard or standards, or other regulation, including labeling, that might be adopted in the event that a final finding is made by the Secretary of Commerce that such a standard or standards, or other regulation, are needed to adequately protect the public against the unreasonable risk of the occurrence of fire leading to death, injury, or significant property damage. Written comments or suggestions should be submitted in at least four (4) copies to the Assistant Secretary for Science and Technology, Room 3862, U.S. Department of Commerce, Washington, DC 20230, and should include any data or other information pertinent to the subject.

Inspection of Relevant Documents.—The written comments received pursuant to this notice will be available for public inspection at the Central Reference and Records Inspection Facility of the Department of Commerce, Room 7043, Main Commerce Building, 14th Street between E Street and Constitution Avenue NW., Washington, DC 20230.

A supporting document is available for inspection in the above facility. The document contains in more detail the data which are summarized in the preceding portions of this notice.

Issued: November 24, 1972.

RICHARD O. SIMPSON,
Acting Assistant Secretary for Science and Technology.

[FR Doc.72-20488 Filed 11-24-72;2:56 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 146a]

PROCAINE PENICILLIN G IN OIL

Proposed Revised Labeling; Certification of Penicillin and Penicillin-Containing Drugs

The Commissioner of Food and Drugs has received a petition from G. C. Hanford Manufacturing Co., Post Office Box 1055, Syracuse, NY 13201, requesting that the regulations for procaine penicillin G in oil be amended to delete the requirement that inactive ingredients be listed on the labeling of such products intended for udder instillation in cattle.

The Commission of Food and Drugs has evaluated the petition and has concluded that there are adequate grounds to grant the requested exemption in that the inactive ingredients in such formulations are not of concern to the user and that such exemption would not be contrary to the public interest.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(n)(5), 82 Stat. 351; 21 U.S.C. 360b(n)(5)) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that Part 146a, be amended in § 146a.45(c)(2)(i) as follows:

§ 146a.45 Procaine penicillin G in oil.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* (i) If it does not contain adrenocorticotropic hormone, it shall comply with subparagraph (1) of this paragraph, except in lieu of the statement "Caution: Federal law prohibits dispensing without prescription" each package shall include adequate directions and warnings for the veterinary use of the drug by the laity. If it is intended for udder instillation in cattle, it shall be exempt from the requirements of § 1.106(b)(2)(v) of this chapter.

* * * * *

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferable in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-20461 Filed 11-28-72;8:49 am]

Social Security Administration

[20 CFR Part 405]

[Regs. 5]

FEDERAL HEALTH INSURANCE PROGRAM FOR THE AGED

Workmen's Compensation Exclusion

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553) that amendments to the regulations as set forth below in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments would provide (1) that where workmen's compensation does not cover all of the medical and hospital services furnished a medicare beneficiary, payment will be made under title XVIII for medicare services furnished which were not covered by the workmen's compensation payment, (2) that where a lump sum compromise settlement of a workmen's compensation claim does not specify the portion of the lump sum attributable to hospital and medical expenses, a formula is furnished for establishing the amount of the lump sum intended as payment of hospital and medical expenses for purposes of the workmen's compensation exclusion, and (3) that where a workmen's compensation claim is contested, payment will be made under title XVIII pending a final decision on the workmen's compensation claim, provided the intermediary or carrier obtains a subrogation agreement as assurance that medicare will be reimbursed in the event the workmen's compensation claim is allowed.

Prior to the final adoption of the proposed regulations, consideration will be given to any data, comments, objections, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, DC 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 3193, 330 Independence Avenue SW., Washington, DC 20201.

The proposed amendments are to be issued under the authority contained in sections 1102, 1861, 1863, 1864, and 1871, 49 Stat. 647, as amended, 79 Stat. 314; 42 U.S.C. 1302, 1395 et seq.

Dated: March 3, 1972.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: November 21, 1972.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Regulations No. 5 of the Social Security Administration, as amended (20 CFR 405), are further amended as follows:

1. Paragraphs (a) and (b) of § 405.316 are revised to read as follows:

§ 405.316 Nonreimbursable expenses; payment for services made under workmen's compensation law.

(a) Payment may not be made under title XVIII of the Act with respect to any

item or service to the extent that payment has been made, or can reasonably be expected to be made, under a workmen's compensation law or plan of the United States or a State. However, where payment for any item or service may not be made by workmen's compensation because furnished by a source not authorized to provide such item or service under the workmen's compensation program, payment for such item or service may be made under title XVIII of the Act if otherwise covered. See § 405.317 (d), (e), and (f) for situations in which payment may be made under title XVIII for services for which payment is not made under the workmen's compensation award.

(b) Any payment under title XVIII of the Act with respect to any item or service shall be made on the condition that repayment will be made to the supplementary medical insurance trust fund or the hospital insurance trust fund, as appropriate, if information is received that payment for the item or srevice has been made under a workmen's compensation law or plan of the United States or a State.

* * * * *

2. Section 405.317 is revised to read as follows:

§ 405.317 Effect of workmen's compensation payment.

(a) *Spell of illness.* A period of inpatient hospital or extended care services for which title XVIII payment may not be made because of § 405.316(a) will be considered in determining whether a spell of illness has begun or has ended (see section 1861(a) of the Act).

(b) *Expenses paid by workmen's compensation.* Services for which payment may not be made because of § 405.316(a) shall not be considered in determining:

(1) The 90-day limitation on inpatient hospital services in each spell of illness (see § 405.110(a)(1)).

(2) The additional 60 lifetime reserve days of inpatient hospital services (see § 405.110(a)(2)).

(3) The 100-day limitation on post-hospital extended care services in each spell of illness (see § 405.120(b)).

(4) The 190-day lifetime limitation for inpatient psychiatric hospital services (see § 405.110(d)).

(5) The 100 home health visits limitation under Part A or Part B of title XVIII (see § 405.130).

(6) The days for which payment for inpatient hospital services or post-hospital extended care services is reduced by the applicable deductible or coinsurance amount (see §§ 405.113, 405.115, and 405.124).

(c) *Deductibles and coinsurance.* Payments made under workmen's compensation cannot be counted toward the deductibles or coinsurance provisions of title XVIII. Thus, if an individual is hospitalized twice in the same spell of illness and the first hospitalization is completely paid for under workmen's compensation, the inpatient hospital deductible would apply to the second hospitalization. In the same way, medical expenses otherwise reimbursable under Part B must first be reduced by any workmen's compensation payment before applying the deductible and coinsurance provisions.

(d) *Limitation in workmen's compensation law on number of days of care or total amount payable.* Certain workmen's compensation programs specify limits on the number of days of care for which payment can be made or the total amount that can be paid for medical care under workmen's compensation with respect to a compensable injury. Services provided after these limits have been reached may be paid for under title XVIII of the Act subject to the deductible and coinsurance requirements. Where services have been furnished after such workmen's compensation limits have been reached, the following rules apply in determining the services for which payment may be made under title XVIII of the Act:

(1) The workmen's compensation payment for such services shall be allocated at the normal workmen's compensation rate of payment to those services furnished first in time until the workmen's compensation benefits are exhausted. Any services otherwise covered under title XVIII of the Act and not paid for under workmen's compensation after such allocation has been made may be paid for under title XVIII, subject to the program provisions as to reasonable cost and to any applicable deductible or coinsurance amounts.

Example. A beneficiary received 60 days of inpatient hospital services for an injury that is compensable under workmen's compensation. This is the beneficiary's first hospital stay in the spell of illness. The hospital's customary all-inclusive charge for inpatient services in semiprivate accommodations is $50 per day and the workmen's compensation payment is made on the basis of customary charges. Under the workmen's compensation law of the State, however, $1,500 is the maximum that can be paid for these services.

The $1,500 workmen's compensation payment would be allocated to the first 30 days of services and the remaining 30 days of that hospital stay would be reimbursable under title XVIII of the Act. The hospital would receive under title XVIII its full reasonable costs for the remaining 30 days less the inpatient hospital deductible. The beneficiary would be charged with 30 days utilization of inpatient hospital services in that spell of illness.

(2) Where the workmen's compensation payment for the last day to which it can be applied is less than the cost of the services provided on that day, payment may be made under Title XVIII of the Act for the difference between the workmen's compensation payment and the reasonable cost of the services furnished subject to any applicable deductible or coinsurance amounts. Such a day would be charged to the beneficiary's utilization record (except where lifetime reserve days are involved).

Example. A beneficiary received 45 days of inpatient hospital services for an injury that is compensable under workmen's compensation. This is the beneficiary's first hospital stay in the spell of illness. The hospital's customary all-inclusive charge for inpatient services in semiprivate accommodations is $60 per day and the workmen's compensation payment is made on the basis of customary charges. Under the workmen's compensation law of the State, however, $1,525 is the maximum that can be paid for these services.

The $1,525 workmen's compensation payment would be allocated as follows: $1,500 to the first 25 days of service and $25 towards the 26th day. The hospital would receive under Title XVIII of the Act its full reasonable costs for the last 20 days less the inpatient hospital deductible and the $25 paid by workmen's compensation for the 26th day. The beneficiary would be charged with 20 days utilization of inpatient hospital services in that spell of illness.

(e) *Patient received semiprivate accommodations but workmen's compensation paid only for ward accommodations.* (1) *Workmen's compensation pays customary charges for ward accommodations.* Where a beneficiary is furnished semiprivate accommodations but the workmen's compensation plan pays the hospital's customary charges for ward accommodations, payment under Title XVIII of the Act is limited to the amount by which the hospital's reasonable cost of furnishing semiprivate accommodations exceeds the hospital's customary charges for ward accommodations at the time of the stay.

(2) *Workmen's compensation pays special rate for ward accommodations.* Where a beneficiary is furnished semiprivate accommodations but the workmen's compensation plan pays only for ward accommodations at a special rate which is less than the hospital's customary charge for ward accommodations, it is assumed, in the absence of evidence to the contrary, that the special rate paid by the workmen's compensation program is deemed payment in full for ward accommodations under the State workmen's compensation law. In such case, payment under Title XVIII of the Act is limited to the amount by which the hospital's reasonable cost of furnishing semiprivate accommodations exceeds the hospital's customary charges for ward accommodations at the time of the stay. In cases, however, where the special rate paid by the workmen's compensation program is not deemed payment in full for ward accommodations, payment under Title XVIII is limited to the amount by which the reasonable cost of semiprivate accommodations exceeds the workmen's compensation payment.

Example. A beneficiary was furnished semiprivate accommodations at X Hospital for an illness that is covered under the workmen's compensation program. The workmen's compensation program pays only for ward accommodations ($50 per day). X Hospital's reasonable cost of furnishing semiprivate accommodations is $52. X Hospital is entitled to receive $2 per day reimbursement under Title XVIII (the $52 per day reasonable cost of semiprivate accommodations less the $50 per day paid by workmen's compensation).

If the workmen's compensation program paid a special rate of $40 per day for ward accommodations, which amount is deemed payment in full for ward accommodations under State law, X Hospital would still be

entitled to receive an additional $2 per day reimbursement under Title XVIII (the $52 per day reasonable cost of semiprivate accommodations less the $50 per day customary charge for ward accommodations).

(3) *Utilization days charged.* Where a beneficiary is furnished semiprivate accommodations and the workmen's compensation plan pays only for ward accommodations (at either the hospital's customary rate for ward accommodations or at a special rate which is less than the hospital's customary charge for such accommodations), the beneficiary is charged with utilization on a pro rata basis (based on the proportion which the payment made under Title XVIII of the Act bears to the total payment for the period during which these accommodations were furnished).

(f) *Workmen's compensation does not pay for certain ancillary services.* Sometimes an individual who is receiving inpatient hospital services for a work injury which is covered under workmen's compensation may also receive ancillary services for a condition which is not work-related, e.g., laboratory services or medication for a preexisting condition. In such cases, if the workmen's compensation plan pays for all of the hospital expenses related to the work injury (including the room and board charges) but not for the ancillary services which are not work-related, Title XVIII benefits may be paid for such ancillary services, subject to the Part A deductible or the Part B deductible and coinsurance provisions. The beneficiary would not be charged with utilization for the days on which these services were received.

Example. An individual was hospitalized for 20 days due to a work-related injury. His bill included $1,100 in charges for room and board and other items and services related to the work injury and $65 in laboratory and medication charges for services in connection with a preexisting condition. Workmen's compensation paid the $1,100 in charges for services related to the work injury, but did not pay the $65 in laboratory and medication charges for the preexisting condition. Since the $65 in charges for laboratory services and medication are not covered under workmen's compensation, Title XVIII benefits may be paid for such expenses subject to any applicable deductible and coinsurance provisions. The individual would not be charged with utilization for the day or days on which the services were received.

3. Sections 405.318–405.320 are revised to read as follows:

§ 405.318 Responsibility of the individual concerning workmen's compensation payment.

The individual is responsible for taking whatever action is necessary to obtain payment under workmen's compensation where payment under that system can reasonably be expected. Failure to take proper and timely action under such circumstances will preclude payment under Title XVIII of the Act to the extent that payment could have been expected under workmen's compensation if such action had been taken. Thus, so long as the facts indicate a reasonable expectation that payment may be made under a workmen's compensation statute, the individual must exhaust his remedies under that system before any payment may be made under Title XVIII of the Act, except as specified in § 405.319(b). Where the time limit for taking action under workmen's compensation has expired and the intermediary determines that payment under workmen's compensation could reasonably have been expected if timely action had been taken, payment under Title XVIII of the Act will be precluded to the extent that the disease or injury for which Title XVIII payment is claimed would be compensable under workmen's compensation had timely action been taken. However, in the event a workmen's compensation claim is subsequently filed and denied solely for reasons other than the delay in filing, the decision denying Title XVIII benefits will be reopened, and, if otherwise appropriate, the Title XVIII claim will be allowed.

§ 405.319 Responsibility of intermediary where there is a possibility of workmen's compensation coverage.

(a) *Investigation of possible workmen's compensation coverage.* Where it appears that a claim submitted to an intermediary is for services furnished with respect to a disease or injury which may be compensable under a State or Federal workmen's compensation law or plan, the intermediary will undertake an investigation to ascertain the extent to which payment under Title XVIII of the Act may be precluded.

(b) *Conditional payment in appealed workmen's compensation cases.* If a title XVIII beneficiary, his employer, or a workmen's compensation carrier is appealing a decision as to the compensability under workmen's compensation of services for which benefits could be paid under Title XVIII in the absence of such compensability, conditional Title XVIII payments may be made (if otherwise appropriate) pending a final decision on the workmen's compensation claim provided:

(1) The intermediary obtains a subrogation agreement signed by the following:

(i) The workmen's compensation carrier or State Workmen's Compensation Commission or agency; and

(ii) The individual or his qualified representative; and

(iii) The provider, physician, or other person who furnished the services for which payment is to be made.

(2) The subrogation agreement provides that the workmen's compensation carrier or State Workmen's Compensation Commission or agency:

(i) Will notify the intermediary promptly when a final decision is reached on the workmen's compensation claim; and

(ii) Will reimburse the intermediary the amount of the conditional payment made under Title XVIII up to the full amount of the workmen's compensation award, in the event that the services are found to be compensable.

§ 405.320 Effect of lump-sum settlement and final release.

Where a lump-sum settlement and final release of a workmen's compensation claim has been entered into and approved by the workmen's compensation board or agency, payment may be made under title XVIII of the Act for expenses incurred for covered services to the extent that such expenses cannot reasonably be deemed to have been reimbursed under the settlement. Therefore, where under the State law the signing of a final release of all rights under the workmen's compensation claim forecloses the possibility of further workmen's compensation benefits, medical expenses incurred thereafter are reimbursable under title XVIII, if otherwise covered, insofar as such medical expenses were not contemplated by and incorporated into the settlement.

4. Section 405.321 is added to read as follows:

§ 405.321 Apportionment of a lump-sum compromise settlement of a workmen's compensation claim.

(a) *General.* Where an individual receives a lump-sum payment as a compromise settlement of a workmen's compensation claim, which has been approved by the workmen's compensation agency, in accordance with the requirements of the State law, such payment shall be deemed a workmen's compensation payment for purposes of title XVIII, even if the settlement agreement stipulates that there is no liability under the workmen's compensation law.

(b) *Determining amount of compromise settlement attributable to medical and hospital expenses.* Where the compromise settlement specifies the items of medical expense covered by the lump-sum payment and has given reasonable recognition to the income replacement element, the apportionment so made shall be deemed conclusive and title XVIII payments may not be made for the same items of medical expense. However, where the settlement does not give recognition to both elements of a workmen's compensation award or does not apportion the sum granted, the portion of the workmen's compensation compromise settlement to be considered as payment for medical and hospital expenses will be calculated as follows:

(1) Determine the ratio which the amount awarded as a compromise settlement (less the reasonable and necessary costs incurred in procuring the settlement) bears to the commuted value of the total amount which would have been payable under workmen's compensation if the claim had not been compromised.

(2) Multiply the total medical and hospital expenses incurred as a result of the injury or disease up to the date of the settlement by such ratio. The product will be deemed to be the amount of the

workmen's compensation settlement intended as payment for medical and hospital expenses.

Example: As the result of an injury which was compensable under the State workmen's compensation law an individual suffered a loss of income and incurred hospital and medical expenses for which the commuted value of the total workmen's compensation payment would have been $7,200 had the case not been compromised. The medical and hospital expenses amounted to $6,000. The workmen's compensation carrier made a settlement with the beneficiary under which it paid $2,400 in toto. A separate award was made for legal fees. Since the workmen's compensation compromise settlement was for one-third of the amount which would have been payable under workmen's compensation had the case not been compromised $\left(\frac{2400}{7200}=\frac{1}{3}\right)$, the workmen's compensation compromise settlement is deemed to have paid for one-third of the total medical and hospital expenses ($\frac{1}{3}\times\$6{,}000=\$2{,}000$).

(c) *Determination of amount of medical expenses reimbursable under title XVIII.* The amount of the workmen's compensation award deemed as payment for medical and hospital expenses (obtained in paragraph (b) of this section) is applied at the prevailing workmen's compensation rate of payment in that jurisdiction, first to those medical and hospital services covered under workmen's compensation but not covered under title XVIII of the Act, then to expenses covered under workmen's compensation and under Part B, and last to expenses covered under workmen's compensation and under Part A. Any remaining medical and/or hospital expenses incurred up to the date of settlement and all medical and/or hospital expenses incurred after the date of settlement shall be deemed not reimbursed under workmen's compensation and therefore reimbursable under title XVIII of the Act.

Example: In the example in paragraph (b) of this section, the $6,000 in hospital and medical expenses included $3,400 in hospital services reimbursable under Part A, $2,100 in expenses for which payment would have been available under Part B, and $500 in expenses for services not reimbursable under title XVIII. The amount of title XVIII benefits payable would be figured as follows: The $2,000 of the compromise workmen's compensation settlement considered as payment for medical and hospital expenses would be applied first to the $500 in noncovered services; the remaining $1,500 would be applied to the $2,100 in expenses for which payment would have been available under Part B. The remaining $600 of such expenses would be reimbursable under Part B of title XVIII and all of the $3,400 in hospital expenses would be reimbursable under Part A, subject to the regular deductible and coinsurance requirements. It is assumed in this example that the expenses specified above as incurred by the individual are the amounts which would be paid by the workmen's compensation carrier for such services. If this is not the case, the services should be charged against the lump-sum payment at the usual workmen's compensation rate. No title XVIII payment will be made for any items so charged.

[FR Doc.72-20452 Filed 11-28-72;8:48 am]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

[49 CFR Part 173]

[Docket No. HM-96; Notice 72-13]

ETIOLOGIC AGENTS

Shipment on Passenger-Carrying Aircraft

On September 30, 1972, the Hazardous Materials Regulations Board published Amendments 172-17 and 173-67 in Docket No. HM-96 establishing requirements for the shipment of etiologic agents.

The regulation permits the shipment of diagnostic specimens and biological products on passenger-carrying aircraft. However, it does not permit the shipment of cultures of etiologic agents on such aircraft. These cultures are presently being transported on passenger-carrying aircraft and prior to the above amendment they were not prohibited.

The Board has received many petitions for reconsideration indicating that the proposed change in transportation conditions would seriously and detrimentally affect the timely response and diagnostic capability of many laboratories involved in the protection of the public health. This position was expressed to the Board by numerous State health agencies, by the American Society of Clinical Pathologists, the American Type Culture Collection, the College of American Pathologists, the Association of State and Territorial Laboratory Directors, The Mycological Society of America, the Institute for Medical Research, The American Association of Immunologists, the American Society for Medical Technology, the American Society for Microbiology, the Infectious Diseases Society of America, the Association of Schools of Public Health, Inc., the American Association of Bioanalysts, a large number of hospitals, clinics, Federal health agencies, and several individual members of the medical profession.

One commenter, the Center for Disease Control, Health Services and Mental Health Administration, U.S. Department of Health, Education, and Welfare, summarized part of the problem by stating that "* * * [a]s an example, the physicians who live in areas not served by cargo-only carriers will be forced to rely on surface transportation to carry cultures to laboratories for determination of antibiotic resistance of cultured bacterial isolates—knowledge which is essential for correct treatment. Loss of time due to slower surface transportation delays the treatment of the patient. In addition, some agents are so sensitive that they may perish if their arrival is delayed in any way. Other problems such as changes in the required degree of acidity, etc., which already cause difficulties in the shipment of microbiologic cultures, will be increased as time between shipment and receipt is lengthened. * * *" This type of concern and statements that the level of protection for public health would be seriously affected permeated the dozens of comments received by the Board.

The Center for Disease Control petitioned that the regulations be amended to permit cultures of etiologic agents in volumes of less than 50 milliliters (1.666 fluid ounces) to be transported on passenger-carrying aircraft. They stated that "* * * [b]ased on our past experience with over 100,000 shipments of etiologic agents annually, our scientific knowledge of these agents, and the public health need for their rapid movement, you are assured that undelayed shipments of cultures of etiologic agents in quantities less than 50 ml. are in the interest of public health, and that the hazard to passengers or crews of aircraft is infinitesimal. * * *"

Throughout this proceeding, the Board has relied on information supplied by the Center for Disease Control because of its expertise in the knowledge and handling of these agents. Based on the information it now has, the Board proposes to modify its regulations and to adopt the proposal of the U.S. Health Services and Mental Health Department. This action would have no effect on the present Department of Health, Education, and Welfare regulations on etiologic agents which continue to apply to the packaging of these substances.

In consideration of the foregoing, 49 CFR Part 173 would be amended as follows:

Paragraph (d) in § 173.386 would be amended by adding paragraph (3) to read as follows:

§ 173.386 Etiologic agents; definition and scope.

* * * * *

(d) * * *

(3) Cultures of etiologic agents of less than 50 milliliters (1.666 fluid ounces) total quantity in one outside package.

* * * * *

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before January 23, 1973 will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831-835 of Title 18, United States Code, section 9 of the Department of Transportation (49 U.S.C. 1657), and Title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430 and 1472(h), 1655(c)).

Issued in Washington, D.C. on November 24, 1972.

W. J. BURNS,
Director,
Office of Hazardous Materials.

[FR Doc.72-20475 Filed 11-28-72;8:50 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

DIURON

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of California, Delaware, Florida, Georgia, New Jersey, New York, North Carolina, South Carolina, and Virginia submitted a petition (PP 2E1263), proposing establishment of a tolerance for residues of the herbicide diuron (3-(3,4-dichlorophenyl)-1,1-dimethylurea) in or on the raw agricultural commodity peaches at 0.1 part per million.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The herbicide is useful for the purpose for which the tolerance is proposed.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The proposed tolerance of 0.1 part per million is at a negligible level and will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), it is proposed that § 180.106 be amended by revising the paragraph "0.1 part per million * * *" as follows:

§ 180.106 Diuron; tolerances for residues.

* * * * *

0.1 part per million (negligible residue) in or on bananas, nuts, and peaches.

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, within 30 days after publication hereof in the FEDERAL REGISTER, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, DC 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the office of the Hearing Clerk.

Dated: November 20, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-20417 Filed 11-28-72;8:45 am]

[41 CFR Part 15-15]

CONTRACT COST PRINCIPLES AND PROCEDURES

Advance Understandings on Particular Cost Items

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the Federal Property and Administrative Services Act of 1949, as amended, the Environmental Protection Agency is considering an amendment to 41 CFR Chapter 15, Subpart 15-15.107, adding new Agency policy requiring advance agreements with the contractor as to the extent of allowability of payment for each individual expert or consultant, proposed as an element of cost under the contract, prior to contract award.

Interested parties may submit, in triplicate, written comments concerning the proposed amendment, to the Contracts Management Division, AMAC, Environmental Protection Agency, Washington, DC 20460. Communications received within 30 days from publication of this proposal in the FEDERAL REGISTER will be considered prior to adoption of the final regulation. A copy of each communication received will be placed on file for public inspection in the Contracts Management Division, Room 413, Waterside Mall West, Washington, DC 20460.

Dated: November 21, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

Subpart 15-15.107—Advance Understandings on Particular Cost Items

§ 15-15.107.1 Professional services.

(a)(1) *Scope of subpart.* This subpart states EPA policy requiring advance agreements with the contractor, covering the extent of allowability of payments for each individual expert or consultant proposed as an element of cost under negotiated contracts. This subpart does not apply to the cost of experts or consultants hired under contracts for personal services as defined in EPPR 15-55.102(b).

(2) *Definition of experts and consultants.* For the purpose of this subpart, the term "experts" and "consultants" shall include those persons acting as individual agents, who are exceptionally qualified, by education or by practical experience in a particular field and who give professional advice or services regarding matters in the field of their special knowledge.

(3) *Policy.* (i) It is the policy of the Agency that prior to award of all negotiated contracts, an advance agreement shall be reached with the contractor covering the extent of allowability of payment for each individual expert or consultant, proposed as an element of cost under the contract. The agreement reached shall be made part of the contract schedule in all cost-reimbursement type contracts and shall set forth the maximum payment allowable for the specific individual expert or consultant. Where fixed price contracts are negotiated on the basis of cost or pricing data, the expert or consultant rates agreed to in establishing the price shall be documented in the contract file.

(ii) The maximum amount or rate of payment of the individual expert or consultant shall be determined on a case-by-case basis, taking into account the relative importance of the duties to be performed, the stature of the individual in his specialized field, comparable pay for positions under the Classification Act or other Federal pay systems, rates paid by private employers, and rates previously paid other experts or consultants for similar work. Compensation shall not exceed the highest rate fixed by the Classification Act pay schedule for GS-18.

(4) *Exceptions.* The foregoing policy may be waived by the chief officer responsible for procurement at the contracting activity, whenever he determines and justifies in writing that the waiver is in the best interest of the Agency. However, this exception does not apply to situations where the experts or consultants are hired under contracts for personal services as defined in EPPR 15-55.102(b). Also see EPPR 15-55.206(e).

(5 U.S.C. 553, 63 Stat. 377, as amended)

[FR Doc.72-20418 Filed 11-28-72;8:45 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 72-325]

REIMBURSABLE SERVICES

Excess Cost of Preclearance Operations

Notice is hereby given that pursuant to § 24.18(d), Customs regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning November 26, 1972.

Installation	*Biweekly excess cost*
Montreal, Canada	$4,368.00
Toronto, Canada	6,931.00
Kindley Field, Bermuda	2,044.00
Nassau, Bahama Islands	3,365.00
Vancouver, Canada	990.00
Winnipeg, Canada	169.00

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[FR Doc.72-20485 Filed 11-28-72;8:51 am]

Office of the Secretary

PRINTERS' RUBBERIZED BLANKETS FROM THE UNITED KINGDOM

Determination of Sales at Not Less Than Fair Value

NOVEMBER 24, 1972.

On September 21, 1972, there was published in the FEDERAL REGISTER a "Notice of tentative negative determination" (37 F.R. 19654) that printers' rubberized blankets from the United Kingdom are not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as "the Act").

The statement of reasons for the tentative determination was published in the above-mentioned notice and interested parties were afforded an opportunity to make written submissions and to present oral views in connection with the tentative determination.

No written submissions or requests to present oral views having been received, I hereby determine that, for the reasons stated in the tentative determination, printers' rubberized blankets from the United Kingdom are not being, nor likely to be, sold at less than fair value (section 201(a) of the Act; 19 U.S.C. 160(a)).

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)) and § 153.33(c), Customs Regulations (19 CFR 153.33(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-20551 Filed 11-28-72;8:54 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S 5337]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

NOVEMBER 20, 1972.

The Bureau of Land Management, U.S. Department of the Interior, has filed an application, Serial No. S 5337, for the withdrawal of public lands described below, from appropriation under the public land laws including the mining laws but not from leasing under the mineral leasing laws. The lands will be used for picnic, campground, and trailhead areas.

On or before December 30, 1972, all persons who wish to submit comments, suggestions, or objections in connection with the proposed protective withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

The Department's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. Adjustments will be made as necessary to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 17 N., R. 9 E., M.D. Meridian,
Sec. 19, Lots 1 and 2, NE¼, E½NW¼.

The area aggregates 321-40 acres.

WALTER F. HOLMES,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.72-20473 Filed 11-28-72;8:50 am]

National Park Service

[Order 1]

ADMINISTRATIVE OFFICER, CHICKAMAUGA AND CHATTANOOGA NATIONAL MILITARY PARK

Delegation of Authority

Chickamauga and Chattanooga National Military Park, Fort Oglethorpe, Ga. 30741.

SECTION 1. *Administrative Officer.* The Administrative Officer may execute and approve contracts not in excess of $2,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the Administrative Officer in behalf of any area administered by the Superintendent, Chickamauga and Chattanooga National Military Park.

SEC. 2. *Re-Delegation.* The authority delegated in this Order No. 1 may not be re-delegated.

(National Park Service Order No. 66, 36 F.R. 21218, as amended, 37 F.R. 4001, 37 F.R. 12854; Southeast Region Order No. 5, 37 F.R. 7721)

Dated: October 16, 1972.

DONALD K. GUITON,
Superintendent.

[FR Doc.72-20423 Filed 11-28-72;8:46 am]

OLYMPIC NATIONAL PARK

Notice of Intention To Extend Concession Contract

Pursuant to the provisions of section 5, of the Act of October 9, 1965; (79 Stat. 969; 16 U.S.C. 20) public notice is hereby given that 30 days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Carl G. and Isabel Hansen authorizing them to provide concession facilities and services for the public within the Log Cabin Lodge area of Olympic National Park, for a

period of 2 years from January 1, 1973, through December 31, 1974.

The foregoing concessioners have performed their obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, are entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within 30 days after the publication date of this notice.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: November 20, 1972.

LAWRENCE C. HADLEY,
Assistant Director,
National Park Service.

[FR Doc.72-20424 Filed 11-28-72;8:46 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN STANDARDS

Cancellation of Maine Inspection Point

Statement of considerations. On August 22, 1972, there was published in the FEDERAL REGISTER (37 F.R. 16884) a notice announcing that as of July 1, 1972, the Maine Department of Agriculture ceased providing official grain inspection services under the U.S. Grain Standards Act (7 U.S.C. 71 et seq.), at Augusta, Maine. Interested organizations and persons were given until September 21, 1972, to make application for designation to operate an official inspection agency at Augusta, Maine. Members of the grain industry were given until September 21, 1972, to submit views and comments and to include the name of the person or agency which they recommend to operate an official inspection agency at Augusta, Maine.

No comments were received with respect to the August 22, 1972, notice in the FEDERAL REGISTER. Therefore, the designation of the Maine Department of Agriculture as the official grain inspection agency at Augusta, Maine, is canceled and no official inspection agency is designated under section 3(m) of the U.S. Grain Standards Act (7 U.S.C. 75(m)) to operate at Augusta, Maine. This notice does not preclude interested organizations and persons making application later for designation to operate an official inspection agency at Augusta, Maine, in accordance with the requirements in section 26.97 of the regulations (7 CFR 26.97) under the U.S. Grain Standards Act.

Done in Washington, D.C., on November 24, 1972.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.72-20510 Filed 11-28-72;8:53 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. B-550]

CLINTON L. BRACKETT

Notice of Loan Application

NOVEMBER 22, 1972.

Clinton L. Brackett, Townsend Avenue, Boothbay Harbor, Maine 04538, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new fiber glass vessel, about 42 feet in length, to engage in the fishery for lobsters, shrimp, and groundfish.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-20414 Filed 11-28-72;8:45 am]

[Docket No. S-595]

GEORGE P. AND M. MARIE O'DAY

Notice of Loan Application

NOVEMBER 22, 1972.

George P. O'Day and M. Marie O'Day, 5100 Clover Blossom Lane, Bremerton, WA 98310, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new fiber glass vessel, about 36-foot in length, to engage in the fishery for salmon, bottomfish, Dungeness crab, and herring off the coasts of Washington and Alaska.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, DC 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-20415 Filed 11-28-72;8:45 am]

[Docket No. S-594]

PAUL T. AND TRUDY THOMAS

Notice of Loan Application

NOVEMBER 22, 1972.

Paul T. Thomas and Trudy Thomas, 4230 Gilman Place W, Seattle, Wash. 98119, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 35-foot in length, to engage in the fishery for salmon, albacore, halibut, and bottomfish off the coasts of California, Oregon, Washington, and Alaska.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, DC 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-20416 Filed 11-28-72;8:45 am]

Social and Economic Statistics Administration

CENSUS ADVISORY COMMITTEE ON STATE AND LOCAL GOVERNMENT STATISTICS

Notice of Public Meeting

The Census Advisory Committee on State and Local Government Statistics will convene on December 8, 1972 at 9:30 a.m. The Committee will meet in room 2113, Federal Building 3, at the Bureau of the Census in Suitland, Md.

The Census Advisory Committee on State and Local Government Statistics was established in October 1948 to advise the Director, Bureau of the Census on planning current work and various censuses of governments, and to advise on where the needs of users of the statistics could be served better.

The Committee is composed of 10 members appointed by the Secretary of

Commerce, and five members appointed by the organization they represent.

The agenda for the meeting is: (1) A panel discussion on Revenue Sharing; (2) Status report on the 1972 Census of Governments; and (3) Panel review of Current and Special Statistics of Governments.

A limited number of seats—approximately 15—will be available to the public. A brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing at least 3 days prior to the meeting.

Persons wishing to submit questions or statements, planning to attend the meeting, or wishing additional information should contact Mrs. Aileen Ashbaugh, Bureau of the Census, Room 2416, Federal Building 3, Suitland, MD. (Mail Address: Washington, D.C. 20233). Telephone: (301) 763-5262.

Dated: November 22, 1972.

HAROLD C. PASSER,
Assistant Secretary for Economic Affairs.

[FR Doc.72-20513 Filed 11-28-72;8:53 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 9861; Docket No. FDC-D-495; NDA 9-861, etc.]

CERTAIN CARDIOVASCULAR PREPARATIONS

Notice of Withdrawal of Approval of New Drug Applications

On August 25, 1972, there was published in the FEDERAL REGISTER (37 F.R. 17226) notice of opportunity for hearing (DESI 9861) in which the Commissioner of Food and Drugs proposed to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the new drug applications for the subject drugs in the absence of substantial evidence that these fixed combination drugs will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or that each component of the combinations contributes to the total effects claimed for the drugs.

On September 22, 1972, McNeil Laboratories, holder of NDA 9-921 Butiserpine tablets and NDA 10-646 Butiserpine R-A tablets, elected to avail itself of the opportunity for a hearing on the two drugs. This request for a hearing is under review and will be the subject of a future publication in the FEDERAL REGISTER.

Concerning Mephoserp tablets (reserpine and mephobarbital), reviewed by the National Academy of Sciences-National Research Council, Drug Efficacy Group, and listed in the notice of August 25, 1972, Nysco Laboratories has stated that the drug has not been manufactured since 1965. It was not the subject of an approved new drug application.

None of the holders of the following new drug applications or any other interested person have filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes an election by such persons not to avail themselves of the opportunity for a hearing:

1. NDA 9-861; Nembu-Serpin tablets and Nembu-Serpin ½ strength tablets containing reserpine and calcium pentobarbital; Abbott Laboratories, 14th and Sheridan Road, North Chicago, IL 60064.

2. NDA 11-191; Harmonyl-N tablets and Harmonyl-N half-strength tablets containing deserpidine and calcium pentobarbital; Abbott Laboratories.

3. NDA 10-456; Butiserpine Elixir containing reserpine and sodium butabarbital; McNeil Laboratories, Inc., Camp Hill Road, Fort Washington, PA 19034.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug applications reviewed and are subject to this notice. See 21 CFR 130.40 (37 F.R. 23185 October 31, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

The Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended, 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to him (21 CFR 2.120), finds on the basis of new information before him with respect to said drugs, evaluated together with the evidence available to him when the applications were approved, that there is a lack of substantial evidence that the drugs will have the effects they purport or are represented to have under the conditions of use prescribed, recommended or suggested in the labeling thereof.

Therefore, pursuant to the foregoing finding, approval of the above new drug applications, and all amendments and supplements applying thereto is withdrawn effective on the date of publication hereof in the FEDERAL REGISTER (11-29-72). Shipment in interstate commerce of any of the above-listed drug products or of any identical, related, or similar product, not the subject of an approved new drug application, is henceforth unlawful.

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-20463 Filed 11-28-72;8:49 am]

[DESI 11255; Docket No. FDC-D-566; NDA 6-547, etc.]

CERTAIN COMBINATION DRUGS CONTAINING ANTACIDS WITH ANTICHOLINERGICS

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

In an announcement (DESI 11255) published in the FEDERAL REGISTER of September 8, 1972 (37 F.R. 18225), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group on the following drugs:

1. Modutrol tablets containing pipethanate hydrochloride, scopolamine methylnitrate, aluminum hydroxide, and magnesium hydroxide; Reed & Carnrick, 30 Boright Avenue, Kenilworth, NJ 07033 (NDA 11-255).

2. Estomul tablets containing orphenadrine hydrochloride, bismuth aluminate, magnesium oxide, aluminum hydroxide, and magnesium carbonate; Riker Laboratories, Inc., Division Dart Inc., 19901 Nordhoff Street, Northridge, CA 91324 (NDA 12-830).

3. Estomul liquid containing orphenadrine hydrochloride, bismuth aluminate, aluminum hydroxide, and magnesium carbonate; Riker Laboratories, Inc. (NDA 12-830).

4. Alzinox compound tablets and Magma containing dihydroxy-aluminum aminoacetate, phenobarbital, and homatropine methylbromide; Smith, Miller & Patch, Inc., 401 Joyce Kilmer Avenue, New Brunswick, NJ 08902 (NDA 6-547).

The announcement stated that these fixed combination drugs lack substantial evidence of effectiveness for their recommended uses and that drugs containing an anticholinergic with an antacid are not appropriate for administration as fixed-dose combinations within the guidelines set forth in the Statement of General Policy or Interpretation § 3.86 Fixed-combination prescription drugs for humans, published in the FEDERAL REGISTER of October 15, 1971 (36 F.R. 20037), and that the Commissioner of Food and Drugs intended to initiate proceedings to withdraw approval of the new drug applications for the drugs.

Interested persons were invited to submit pertinent data bearing on the proposal within 30 days following publication of the announcement. No data providing substantial evidence of effectiveness have been received.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the

drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185 October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD–300), 5600 Fishers Lane, Rockville, Md. 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER the applicant(s) and any other interested person is required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within said 30 days will constitute an election by him not to avail himself of the opportunity for a hearing.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–20468 Filed 11–28–72;8:49 am]

[Dockets Nos. FDC–D–438; NADA 3–161V and NADA 3–162V]

HAVER-LOCKHART LABORATORIES

Certain Phenothiazine-Containing Products; Notice of Withdrawal of Approval of New Animal Drug Applications

In the FEDERAL REGISTER of September 27, 1972 (37 F.R. 20189), the Commissioner of Food and Drugs published a notice proposing to withdraw approval of new animal drug application (NADA) No. 3–161V for Phenothiazine tablets and NADA No. 3–162V for Phenothiazine Suspension (Red); marketed by Haver-Lockhart Laboratories, Box 390, Shawnee Mission, KS 66201.

Haver-Lockhart Laboratories waived an opportunity for a hearing. Therefore, based on the grounds set forth in the cited notice of opportunity for a hearing, the Commissioner concludes that approval of said new animal drug applications should be withdrawn. Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–351; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 3–161V and NADA No. 3–162V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of publication of this document (11–29–72).

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–20470 Filed 11–28–72;8:49 am]

[Docket No. FDC–D–507; NADA 7–461V, 9–009V]

NELSON LABORATORIES, INC., AND MERCK SHARP & DOHME RESEARCH LABORATORIES

Certain Drug Products Containing Sulfaquinoxaline; Notice of Withdrawal of Approval of New Animal Drug Applications

In the FEDERAL REGISTER of September 22, 1972 (37 F.R. 19839), the Commissioner of Food and Drugs published a notice proposing to withdraw approval of new animal drug application (NADA) No. 7–461V for Sulfaquinoxaline Solution; marketed by Nelson Laboratories, Inc., 404 East 12th Street, Sioux Falls, SD 57101 and NADA No. 9–009V for S. Q. Tablet and Bolus; marketed by Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, NJ 07065.

Neither the above named firms nor any other interested persons have filed a written appearance in response to the above cited notice within said 30 days. This is construed as an election by said persons not to avail themselves of the opportunity for a hearing.

Therefore, based on the grounds set forth in said notice of opportunity for a hearing, the Commissioner concludes that approval of said new animal drug applications should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–351; 21 U.S.C. 360b) and under authority delegated to

the Commissioner (21 CFR 2.120), approval of NADA No. 7-461V and NADA No. 9-009V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of publication of this document (11-29-72).

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc. 72-20471 Filed 11-28-72;8:49 am]

[DESI 11562; Docket No. FDC-D-511; NDA 11-562]

PFIZER LABORATORIES

Carbetapentane Citrate Jel; Notice of Withdrawal of Approval of New Drug Application

On August 25, 1972 there was published in the FEDERAL REGISTER (37 F.R. 17227) a notice of opportunity for hearing (DESI 11562) in which the Commissioner of Food and Drugs proposed to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the new drug application for the following drug:

NDA 11-562; Candette Cough Jel containing carbetapentane citrate; Pfizer Laboratories Division, Pfizer Inc., 235 East 42d Street, New York, NY 10017.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application reviewed and are subject to this notice. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any person who wished to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

Neither Pfizer Laboratories nor any other interested person has filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes an election by such persons not to avail themselves of the opportunity for a hearing.

The Commissioner of Food and Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to him (21 CFR 2.120), finds that new evidence not contained in the new drug application or not available to the Commissioner until after the application was approved, evaluated together with the evidence available to him when the application was approved, reveals that the drug is not shown to be safe for use under the conditions of use upon the basis of which the application was approved. Specifically, the risks involved in its use outweigh any expected benefits in that inexact methods of determining dosage (of a gel) are potentially dangerous, particularly in the care of small children.

Therefore, pursuant to the foregoing findings, approval of new drug application 11-562 and all amendments and supplements applying thereto is withdrawn effective on the date of publication hereof in the FEDERAL REGISTER. Shipment in interstate commerce of the above-listed drug product or of any identical, related, or similar product, not the subject of an approved new drug application, is henceforth unlawful.

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-20469 Filed 11-28-72;8:49 am]

[DESI 97; Docket No. FDC-D-509; NDA 97 etc.]

ROCHE LABORATORIES AND AMERICAN PHARMACEUTICAL CO.

Certain OTC Multiple-Vitamin Preparations for Oral Use; Notice of Withdrawal of Approval of New Drug Applications

On September 13, 1972 there was published in the FEDERAL REGISTER (37 F.R. 18576) an announcement and notice of opportunity for hearing (DESI 97) in which the Commissioner of Food and Drugs proposed to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the new drug applications for the following products:

1. NDA 97; Cal-C-Tose Powder containing in each serving 2,000 units vitamin A, 2 mg. vitamin B_1, 1 mg. vitamin B_2, 75 mg. vitamin C, 500 units vitamin D, and 5 mg. niacinamide; formerly marketed by Roche Laboratories, Division of Hoffmann La Roche Inc., Nutley, NJ 07110.

2. NDA 336; Codanol Vitamin Liquid, each 5 ml., containing 4,000 USP units vitamin A palmitate, 1,000 USP units ergocalciferol, 2 mg. thiamine mononitrate, 2 mg. sodium riboflavin phosphate, 1 mg. pyridoxine hydrochloride, 3 mcgm. cyanocobalamin, 50 mg. ascorbic acid and 5 mg. niacinamide; formerly marketed by American Pharmaceutical Co., 120 Bruckner Boulevard, Bronx, NY 10454.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug applications reviewed and are subject to this notice. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Md. 20852.

The notice stated that, formulated as described, the benefit-to-risk ratio associated with the products is unfavorable.

Neither the holders of the applications nor any other person have filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes an election by such persons not to avail themselves of the opportunity for a hearing.

The Commissioner of Food and Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended; 21 U.S.C. 355) and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to him (21 CFR 2.120), finds that new evidence not contained in the new drug applications or not available to the Commissioner until after the applications were approved, evaluated together with the evidence available to him when the applications were approved, reveals that the products are not shown to be safe for use under the conditions of use upon the basis of which the applications were approved.

Therefore, pursuant to the foregoing findings, approval of the above new drug applications and all amendments and supplements applying thereto, is withdrawn effective on the date of publication hereof in the FEDERAL REGISTER (11-29-72). Shipment in interstate commerce of any of the above-listed drug products or of any identical, related, or similar product, not the subject of an approved new drug application, is henceforth unlawful.

Dated: November 21, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc. 72-20462 Filed 11-28-72;8:49 am]

[FAP 1H2621]

OLIN CHEMICALS

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition (FAP 1H2621) has been filed by Olin Chemicals, 120 Long Ridge Road, Stamford, CT 06904, proposing that § 121.2520 *Adhesives* (21 CFR 121.2520) be amended to provide for the safe use of sodium salt of 1-hydroxy-2(1H)-pyridinethione as a preservative in food packaging adhesives.

Dated: November 20, 1972.

ALBERT C. KOLBYE, Jr.,
Acting Director, Bureau of Foods.

[FR Doc.72-20472 Filed 11-28-72;8:49 am]

Health Services and Mental Health Administration

NATIONAL ADVISORY COUNCIL ON HEALTH MANPOWER SHORTAGE AREAS AND NATIONAL ADVISORY MENTAL HEALTH COUNCIL

Notice of Meetings

Pursuant to Executive Order 11671, the Administrator, Health Services and Mental Health Administration, announces the meeting dates and other required information for the following

National Advisory bodies scheduled to assemble the month of December 1972, in accordance with provisions set forth in section 13(a) (1) and (2) of that Executive order:

Committee name	Date, time, place	Type of meeting and/or contact person
National Advisory Council on Health Manpower Shortage Areas.	Dec. 1–2, 9 a.m., Woodmont Room, Holiday Inn of Bethesda, 8120 Wisconsin Ave., Bethesda, MD.	Open. Contact Jane Hoffman, Room 6–05, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD., Code 301—443–4437.

Purpose. The Council is charged with establishing guidelines and regulations to improve the delivery of health care services; assigning Public Health Service personnel to areas where medical manpower and facilities are inadequate to meet the health needs of persons living in such areas; and on a nationwide basis recommending the criteria and personnel on which selection of areas are based.

Agenda. Agenda items will cover reports on Scope of Services and Scarcity Areas; discussion of extension of legislation authorizing the National Health Service Corps.

Committee name	Date, time, place	Type of meeting and/or contact person
National Advisory Mental Health Council.	Dec. 4–6, 9:30 a.m., Conference Room 14–105, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Dec. 4—Open. Dec. 5–6—Closed. Contact K. Patrick Okura, Room 17C–26, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD, Code 301—443–4597 or Barbara O'Konek, Room 9C–05, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD, Code 301—443–4335.

Purpose. Advises on matters of program planning and evaluation relevant to mental health programs. Reviews applications for grants-in-aid relating to research, training, and instructions in the field of psychiatric disorder.

Agenda. December 4 will be devoted to a discussion of policy issues. Agenda items will include: a report by the Director, National Institute of Mental Health, on administrative and legislative developments; discussion with the Administrator, Health Services and Mental Health Administration; the implications of recently enacted Social Security Amendments for the field of mental health; and a report on the coordination of DHEW drug abuse programs.

On December 5 and 6 the Council will conduct a final review of grant applications for Federal assistance. This session will not be open to the public, in accordance with the determination by the Secretary of Health, Education, and Welfare, pursuant to the provisions of Executive Order 11671, section 13(d). Items for discussion are subject to change due to priorities as directed by the President of the United States, or the Secretary of Health, Education, and Welfare.

A roster of members may be obtained from the contact person listed above.

Dated: November 22, 1972.

ANDREW J. CARDINAL,
Associate Administrator for Management, Health Services and Mental Health Administration.

[FR Doc.72–20450 Filed 11–28–72;8:48 am]

National Institutes of Health

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

Notice of Public Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the NIAID Influenza Subcommittee of the Infectious Disease Committee on December 2, 1972, at 8:30 a.m., National Institutes of Health, Building 31, Conference Room 7A–24. This meeting will be open to the public to discuss plans for future influenza workshops, in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination of September 27, 1972. Attendance by the public will be limited to space available.

Mr. Robert Schreiber, NIAID Information Officer, National Institutes of Health, Building 31, Room 7A–34, phone 496–5717, will furnish a summary of the meeting and a roster of the committee members.

Mrs. Martha Mattheis, Executive Secretary, National Institutes of Health, Building 31, Room 7A–10, phone 496–5105, will furnish substantive program information.

Dated: November 21, 1972.

JOHN F. SHERMAN,
Deputy Director.

[FR Doc.72–20550 Filed 11–28–72;8:54 am]

Office of the Secretary

TUSKEGEE SYPHILIS STUDY AD HOC ADVISORY PANEL

Notice of Meeting

A meeting of the Tuskegee Syphilis Study Ad Hoc Advisory Panel is to be held on November 30, 1972. This panel was established by the Assistant Secretary for Health and Scientific Affairs to provide advice on the circumstances surrounding the Tuskegee, Ala., study of untreated syphilis in the male Negro initiated by the U.S. Public Health Service in 1932. The Assistant Secretary for Health and Scientific Affairs requested the panel to advise him on the following specific aspects of the Tuskegee syphilis study:

1. Determine whether the study was justified in 1932 and whether it should have been continued when penicillin became generally available.

2. Recommend whether the study should be continued at this point in time, and if not, how it should be terminated in a way consistent with the rights and health needs of its remaining participants.

3. Determine whether existing policies to protect the rights of patients participating in health research conducted or supported by the Department of Health, Education, and Welfare are adequate and effective and to recommend improvements in these policies, if needed.

This meeting is for the sole purpose of considering and formulating the advice which the panel will give to the Assistant Secretary for Health and Scientific Affairs on the three charges outlined above, and will involve exclusively the internal expression of views and judgments of its members. Accordingly, under the authority of the Secretary's notice of Determination of September 27, 1972, this meeting is closed to the public. The meeting will begin at 10 a.m. in Conference Room 8, Building 31 at the National Institutes of Health, Bethesda, Md. A summary of the meeting and a roster of panel members may be obtained from Mr. John Blamphin (202—962–7906), Room 5614, HEW North Building, 330 Independence Avenue SW., Washington, DC 20201.

Dated: November 6, 1972.

R. C. BACKUS, Ph. D.,
Executive Secretary, Tuskegee Syphilis Study Ad Hoc Advisory Panel.

[FR Doc.72–20552 Filed 11–28–72;8:54 am]

Social and Rehabilitation Service

NATIONAL ADVISORY COUNCIL ON VOCATIONAL REHABILITATION

Notice of Public Meeting

This Council advises on research and demonstration strategy and programs administered under the Vocational Rehabilitation Act.

The Council will meet December 7–8, 1972, at 9 a.m. in Room 5026, South Building, Department of Health, Education, and Welfare, 330 C Street SW., Washington, DC. Agenda items include a discussion on legislation, long-range planning, and research and demonstration activities. Meeting open to public observation.

WILLMAN A. MASSIE,
Executive Secretary.

NOVEMBER 22, 1972.

[FR Doc.72–20412 Filed 11–28–72;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-72-209]

REGIONAL COUNSELS

Redelegation of Authority

Pursuant to section B of the delegation of authority to the General Counsel at 36 F.R. 11052, and 24 CFR 17.7, there is hereby redelegated to each Regional Counsel the power and authority to consider, ascertain, adjust, determine, compromise, allow, deny, and otherwise dispose of each claim against the Department which meets the following criteria:

1. The claim is for property damage and/or personal injury and the amount claimed does not exceed $2,500.

2. The incident giving rise to the claim occurred within the HUD region for which the Regional Counsel considering the claim has jurisdiction.

3. The claim is not filed by, or on behalf of, a HUD employee.

This redelegation is concurrent with, and does not supersede, the authority delegated to the Associate General Counsel for Equal Opportunity, Litigation, and Administration on August 18, 1971.

Effective date. This redelegation of authority is effective as of the 15th day of November 1972.

DAVID O. MAXWELL,
General Counsel.

[FR Doc.72-20481 Filed 11-28-72;8:51 am]

[Docket No. N-72-128]

Office of the Interstate Land Sales Registration

PUBLIC FILES AND RECORDS

Notice of Access

The Interstate Land Sales Administrator gives notice hereby that the public records of the Office of Interstate Land Sales Registration are available for inspection Monday through Friday (except holidays) between the hours of 9 a.m. and 4:15 p.m. in Room 9253 of the HUD Building, 451 Seventh Street SW., Washington, DC.

Dated: November 17, 1972.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.72-20515 Filed 11-28-72;8:53 am]

Office of Assistant Secretary for Housing Production and Mortgage Credit

[Docket No. N-72-127]

MINIMUM PROPERTY STANDARDS

Publication and Availability

The Department of Housing and Urban Development has prepared new minimum property standards. The minimum property standards described physical standards for housing. They are intended to provide a sound technical basis for determining the acceptability of housing under the various housing programs of the Department.

The minimum property standards are to be published in three volumes: (1) Minimum Property Standards for One and Two-Family Dwellings, (2) Minimum Property Standards for Multifamily Housing, and (3) Minimum Property Standards for Care-Type Housing. Drafts of the minimum property standards are available until December 31, 1972, for public examination in each HUD Regional, Area, and Insuring Office.

It is expected that the new minimum property standards ultimately will be formally adopted by the Department. At that time they will be incorporated into the Department's regulations and will be available for purchase by all interested persons.

Issued at Washington, D.C. on November 22, 1972.

EUGENE A. GULLEDGE,
Assistant Secretary-Commissioner.

[FR Doc.72-20483 Filed 11-28-72;8:51 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-295, 50-304]

COMMONWEALTH EDISON CO.

Notice of Reconstitution of Board

In the matter of Commonwealth Edison Co. (Zion Station, Units 1 and 2).

Jerome Garfinkel, Esq., was Chairman of the Atomic Safety and Licensing Board established to consider the above applications. Because of other Board commitments, Mr. Garfinkel is unable to continue in his duties as Chairman of this Board.

Accordingly, Thomas W. Reilly, Esq., who has been the alternate chairman, is appointed Chairman of the Board. Reconstitution of the Board in this manner is in accordance with § 2.721 (b) of the rules of practice.

Dated at Washington, D.C. this 22d day of November 1972.

JAMES R. YORE,
Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.72-20413 Filed 11-28-72; 8:45 am]

[Docket No. 50-412]

DUQUESNE LIGHT CO. ET AL.

Notice of Receipt of Application for Construction Permit and Facility License and Availability of Applicants' Environmental Report; Time for Submission of Views on Antitrust Matter

Duquesne Light Co., Ohio Edison Co., Pennsylvania Power Co., the Cleveland Electric Illuminating Co., and the Toledo Edison Co. (the applicants), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, have filed an application, which was docketed October 20, 1972, for authorization to construct and operate a pressurized water nuclear reactor at its site, located in Shippingport Borough, Beaver County, Pa. The site consists of 449 acres of land, and is located on the south bank of the Ohio River approximately 1 mile from Midland, Pa., 5 miles east of East Liverpool, Ohio, and 22 miles northwest of Pittsburgh, Pa.

The proposed nuclear facility, designated by the applicant as Beaver Valley Power Station, Unit 2, is designed for initial operation at approximately 2660 megawatts (thermal) with a net electrical output of approximately 852 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within 60 days after November 28, 1972.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545, and at the Beave Area Memorial Library, 100 College Avenue, Beaver, PA 15009.

The applicants have also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in appendix D to 10 CFR Part 50, a report entitled, "Applicants' Environmental Report—Construction Permit Stage," dated November 6, 1972. The report has been made available for public inspection at the aforementioned locations. The report, which discusses environmental considerations related to the proposed construction of the Beaver Valley Power Station, Unit 2, is also being made available at the Commonwealth of Pennsylvania, State Clearing House, 5100 Finance Building, Harrisburg, PA 17120, and at the Southwestern Pennsylvania Regional Planning Commission, 564 Forbes Avenue, Pittsburgh, PA 15219.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement related to the proposed action will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement. The summary notice will request comments from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Md., this 21st day of November 1972.

For the Atomic Energy Commission.

R. C. DEYOUNG,
Assistant Director for Pressurized Water Reactors, Directorate of Licensing.

[FR Doc.72-20358 Filed 11-28-72;8:45 am]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Notice and Order for Evidentiary Hearing

In the matter of Omaha Public Power District (Fort Calhoun Station, Unit No. 1).

Take notice, and *it is hereby ordered,* In accordance with the Atomic Energy Act as amended, the rules of practice of the Commission, and the Prehearing Conference Order of this Board dated November 15, 1972, that the initial session of the evidentiary hearing in this proceeding shall convene at 1:30 p.m., local time, on Monday, December 11, 1972, in the Caucus Room (New Annex) of the Holiday Inn, 3321 South 72d Street, Omaha, Nebr. 68124.

All persons having filed a request for a limited appearance will be afforded an opportunity to place their comments and views into the record on the first day.

The following general agenda will be followed:

1. Preliminary matters by the Board;
2. Opening statements of the parties;
3. Limited appearances;
4. Preliminary matters brought by parties including the consideration of stipulations, if any;
5. Introduction of testimony;
6. Questioning of witnesses by parties and Board; and
7. Closing matters.

Issued at Washington, D.C., this 22d day of November 1972.

THE ATOMIC SAFETY AND LICENSING BOARD,
JOHN B. FARMAKIDES,
Chairman.

[FR Doc.72-20457 Filed 11-28-72;8:48 am]

[Docket No. 50-395]

SOUTH CAROLINA ELECTRIC AND GAS CO.

Notice and Order for Prehearing Conference

In the matter of South Carolina Electric and Gas Co. (Virgil C. Summer Nuclear Station Unit 1).

Notice is hereby given that, pursuant to the Atomic Energy Commission's "Notice of Hearing on Application for Construction Permit" dated September 21, 1972 (37 F.R. 2190), the Atomic Safety and Licensing Board will hold a prehearing conference in such proceeding on December 18, 1972, at 10 a.m., local time, in the Fairfield County Courthouse, Congress Street, Winnsboro, S.C. This prehearing conference shall constitute both the special prehearing conference required pursuant to § 2.751a and the prehearing conference required pursuant to § 2.752 of the Commission's rules of practice, 10 CFR Part 2. This prehearing conference will deal with the following matters:

1. Outstanding petitions for intervention;
2. Identification, simplification and clarification of the issues;
3. The necessity or desirability of amending the pleadings;
4. The need for discovery, if any, and the time required therefor;
5. Stipulations, and admissions of fact and of the contents and authenticity of documents to avoid unnecessary proof;
6. Identification of witnesses and the limitation of the number of expert witnesses, and other steps to expedite the presentation of evidence;
7. Procedures, including rules of evidence, to be followed in the presentation of evidence at the evidentiary hearing;
8. The effect of the certification provision of the Federal Water Pollution Control Act Amendments of 1972 (section 401(a)), on the proof required at the evidentiary hearing in this proceeding. It is expected that the parties will be prepared to advise the Board regarding applicable State and Federal water quality standards and effluent limitations, and will also be prepared to advise the Board with regard to the effect on this proceeding of section 511(c) of the Federal Water Pollution Control Act Amendments of 1972;
9. Establishment of a schedule for further action, including the setting of a hearing schedule; and
10. Such other matters as may aid in the orderly disposition of the instant proceeding.

Members of the public are entitled to attend this prehearing conference as well as the evidentiary hearing to be held at a later date to be fixed by the Board. Members of the public wishing to make limited appearances may identify themselves at this prehearing conference but oral or written statements to be presented by limited appearance will not be received at this conference. The Board will receive such statements at the aforementioned evidentiary hearing.

It is ordered, That counsel for the applicant, the regulatory staff of the Commission, and any petitioners for intervention shall conduct such informal conferences, including telephone conferences, to the extent that they may be practicable, to expedite the proceeding and in particular to advance the purposes of the special prehearing conference.

Dated this 22d day of November 1972 at Washington, D.C.

By Order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.72-20458 Filed 11-28-72;8:48 am]

[Docket No. 50-397]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM

Order Scheduling Prehearing Conference; Correction

In the matter of the Washington Public Power Supply System (Hanford No. 2 Nuclear Powerplant); Docket No. 50-397.

The Licensing Board's order of November 20, 1972, published November 22, 1972 (37 F.R. 24843), giving notice of a prehearing conference in this proceeding is hereby amended to correct an error in the address of the hearing room. The address of the Richland Post Office and Court House is 825 Jadwin Avenue and not 25 Jadwin Avenue as set forth in the aforementioned order.

Wherefore, it is ordered, In accordance with the Atomic Energy Act of 1954, as amended, and the rules of practice of the Commission, that a prehearing conference in this proceeding shall convene at 2 p.m., local time, on Thursday, November 30, 1972, in the Post Office and Court House Auditorium, 825 Jadwin Avenue, Richland, WA 99352.

Issued at Washington, D.C., this 27th day of November 1972.

ATOMIC SAFETY AND LICENSING BOARD,
ROBERT M. LAZO, *Chairman.*

[FR Doc.72-20620 Filed 11-28-72;10:50 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24950]

AMERICAN AIRLINES, INC.

Order of Investigation and Suspension Regarding Certain GIT Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of November 1972.

By tariff [1] marked to become effective December 4, 1972, American Airlines, Inc. (American) proposes to establish round-trip group inclusive tour basing fares for groups of 240 or more from Boston to Los Angeles and return, applicable only on Saturdays during February 1973. The proposed round-trip fares are $225.00 for adults, $160.00 for youths 12 through 20 years of age, and $120.00 for children under 12, providing discounts from the normal coach fare of 30, 50, and 64 percent, respectively. Not more than seven children (2-12 years of age) would be accepted for every four adult passengers, with no limitation on the number of passengers age 12 through 20. A minimum-stay requirement of 7 days applies, and return travel must be completed by February 24, 1973, when the tariff expires.

In support of its proposal, American alleges that the new group fares are intended to stimulate travel during the month of February, a period in which transcontinental traffic has historically been depressed. The carrier contends that the instant proposal is similar to fares which were in effect in previous years in the Boston-Los Angeles market; that the risk of diversion is limited to family groups of three or more; and that the fares are reasonably related to cost.

No complaints have been filed.

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[1] American Airlines, Inc., Tariff C.A.B. No. 274.

Upon consideration of the tariff proposal, and all other relevant matters, the Board finds that the proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

Based on American's traffic and flight frequency data for February 1972, its present winter schedules, and its traffic forecast for 1973, the carrier apparently either intends to schedule additional flights in the Boston-Los Angeles market during February 1972 (compared to last February) or is prepared to operate extra sections. It is in view of this, and the carrier's failure to demonstrate the reasonableness of the fares on a fully allocated basis, that we have determined to suspend the fares.

American attempts to show the reasonableness of the fares by a comparison with the cost formula developed by the Board's Bureau of Economics in Phase 9 of the Domestic Passenger-Fare Investigation. American asserts that the proposed fares cover 53 percent of the costs determined under that formula, which was based on a 47.6-percent load factor, and concludes that, since the minimum-group size exceeds the capacity of its B–707 and DC–10 aircraft and represents close to 80 percent of the capacity of its B–747 aircraft, the load factors associated with the fares will be high and the fare/cost relationship is therefore reasonable.

However, in our opinion, the large minimum-group size may or may not result in the extremely high load factors on which American relies to justify the reasonableness of the fares. The minimum-group size is so large that the groups will have to be split. Even American's B–747 does not have 248 seats in the coach compartment.[2] To the extent extra sections will need to be operated, overall average high load factors would be difficult to attain notwithstanding a 100-percent load factor on the scheduled flight.

Last February, American's Saturday operations between Boston and Los Angeles consisted of two flights a day, one B–707 and one B–747.[3] Including first-class seats, American operated an average total of 246 empty seats a day during February 1972, which would not be sufficient to accommodate even one minimum group of 248 passengers, let alone the 400-a-day American has estimated. Thus, unless American has planned to schedule substantially more seats this February, extra sections would be the result. In either event, a serious question is raised as to the reasonableness of such greatly reduced fares.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation is instituted to determine whether the fares and provisions in American Airlines, Inc.'s C.A.B. No. 274, and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, and practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions in American Airlines, Inc.'s C.A.B. No. 274, are suspended and their use deferred to and including March 3, 1973, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding ordered herein be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter designated; and

4. Copies of this order be filed in the aforesaid tariff and be served upon American Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-20493 Filed 11-28-72;8:52 am]

[Docket No. 23131]

SHULMAN AIR FREIGHT ENFORCEMENT PROCEEDING

Notice of Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding now scheduled for November 30, 1972 (37 F.R. 23123, Oct. 28, 1972), is indefinitely postponed.

Dated at Washington, D.C., November 22, 1972.

[SEAL] JAMES S. KEITH,
Administrative Law Judge.

[FR Doc.72-20494 Filed 11-28-72;8:52 am]

[2] In addition to the group of 240 passengers eight tour conductors are permitted to travel with the group.

[3] American's present nonstop winter schedules, two round-trip DC–10 frequencies, provide approximately the same number of coach seats as it operated in the market last February.

[4] Members Minetti and Murphy filed a dissenting statement, filed as part of the original document.

ENVIRONMENTAL PROTECTION AGENCY

AMCHEM PRODUCTS, INC.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1325) has been filed by Amchem Products, Inc., Ambler, Pa. 19002, proposing establishment of tolerances (40 CFR Part 180) for residues of the plant regulator ethephon ((2 - chloroethyl) phosphonic acid) in or on the raw agricultural commodities apples and pineapple foliage at 6 parts per million and pineapples at 2 parts per million.

The analytical method proposed in the petition for determining residues of the plant regulator is a gas chromatographic procedure with a flame photometric detector for phosphorus.

Dated: November 20, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.72-20419 Filed 11-28-72;8:45 am]

INTERNATIONAL MINERALS & CHEMICAL CORP.

Notice of Filing of Petition Regarding Microbial Pesticide

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1304) has been filed by International Minerals & Chemical Corp., Libertyville, Ill. 60048, proposing establishment of an exemption from the requirement of a tolerance (40 CFR Part 180) for residues of the microbial insecticide nuclear polyhedrosis virus of *Heliothis zea* in or on the raw agricultural commodity cottonseed.

The analytical methods proposed in the petition for determining residues of the insecticide are: (1) A quantitative microscopic determination by counting the number of polyhedral inclusion bodies and (2) a bioassay method based on the mortality of Heliothis larvae.

Dated: November 20, 1972.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-20420 Filed 11-28-72;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental Impact Statements Received by the Council From November 13 Through November 17, 1972

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, DC 20250, (202) 388-7803.

FOREST SERVICE

Draft, November 16

Land Exchange, U.S. Government and J. Hamilton, New Mexico. The statement refers to a proposed exchange of lands between the Forest Service and John S. Hamilton, Jr. of Silver City, New Mexico. Under the agreement Mr. Hamilton offers 976.41 acres of private land owned by him and wishes to select 9,771.72 acres of land owned by the United States. Included in Mr. Hamilton's offer are 71.62 acre-ft. of water rights on the Gila River System which would be used for the Gila River Bird Management Area. Mr. Hamilton will utilize his new land for ranching purposes; this he already does under permit. If no exchange is made Mr. Hamilton would develop his lands for subdivision purposes, with adverse effects upon the Gila Wilderness. (36 pages) (ELR Order No. 05638) (NTIS Order No. EIS-72 5638-D)

Draft, November 14

Skyline Basin Winter Sports Development, Columbia County, Wash. The statement refers to the proposed development of a major winter sports (skiing) facility, with an initial capacity of 2,000 persons. Construction will adversely affect soil, water, and visual resources; the (unspecified) loss of habitat will adversely affect wildlife. (35 pages) (ELR Order No. 05623) (NTIS Order No. EIS-72 5623-D)

Draft, November 16

Herbicide Use, Washington National Forests, Wash. The statement refers to a proposed program for the use of the herbicides Amitrole, Atrazine, Dicamba, 2, 4-D, 2, 4, 5-T, Silvex, and Picloram on the Okanogan, Umatilla, and Wenatchee National Forests. The purposes of the action include the control of vegetation which interferes with crop trees, is poisonous to livestock, or is classified as noxious on agricultural land. Additional purposes are the improvement of wildlife habitat and the reduction of rodent populations. The use of the chemicals will put herbicides into the environment in varying amounts; non-target species will be hit. Very little is known about the effects of these herbicides upon plant and wildlife communities. (Approx. 350 pages) (ELR Order No. 05640) (NTIS Order No. EIS-72 5640-D)

Final, November 16

Upper Craig Creek, Jefferson National Forest, Montgomery, Craig, and Roanoke Counties, Va. The statement refers to the management of the Upper Craig Creek Unit, Blacksburg, and New Castle Ranger Districts of the Forest. The program will provide for increased recreational use, timber management, wildlife enhancement, and water quality control. New roads and trails will be built (including a horse trail), and a new trail shelter will be constructed on the Appalachian Trail. (26 pages) Comments made by EPA. (ELR Order No. 05637) (NTIS Order No. EIS-72 5637-F)

RURAL ELECTRIFICATION ADMINISTRATION

Draft, November 17

Creston Plant, Union County, Iowa. The statement considers a request by the Central Iowa Power Cooperative that it be granted a loan in order to install one 30MW gas turbine and waste-heat boiler at the plant. The operation of the turbine, combined with the closing of two existing coal-fired boilers, will result in an overall reduction of pollution levels. (88 pages) Comments made by USDA, EPA, FPC, DOI. (ELR Order No. 05646) (NTIS Order No. EIS-72 5646-F)

SOIL CONSERVATION SERVICE

Draft, November 17

Mendota Watershed, LaSalle and Bureau Counties, Ill. The statement refers to a proposed watershed protection project measuremen suesrmea which would include land treatment measures, five flood water retarding structures, and 0.9 mile of channel works. The program is intended to reduce erosion and flood damage. Approximately 52 acres would be in undated by the project; an additional 50 acres would be used for spoil deposit and structure sites. (22 pages) (ELR Order No. 05645) (NTIS Order No. EIS-72 5645-D)

ATOMIC ENERGY COMMISSION

Contact: For nonregulatory matters: Mr. Robert J. Catlin, Director, Division of Environmental Affairs, Washington, DC 20545, 202—973-5391.

For regulatory matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, Washington, DC 20545, 202—973-7373.

Draft, November 15

James A. FitzPatrick Nuclear Powerplant, Oswego County, N.Y. The statement refers to the proposed continuation of a construction permit and the issuance of an operating license to the Power Authority of the State of New York. The plant will utilize a 2436 MWt boiling water reactor with anticipated "stretch" levels of 2557 MWt and 821 MWe. Cooling will be by a once-through system, with water being drawn from and discharged to Lake Ontario at 370,000 gpm. Small amounts of radioactive gaseous and liquid effluents will be released to the environs. (174 pages) (ELR Order No. 05631) (NTIS Order No. EIS-72 5631-D)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs. Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, DC 20314, 202—693-7168.

Final, November 16

Aquatic Plant Control and Eradication, Texas. The statement refers to the proposed control and eradication of water hyacinth and alligatorweed in the navigable waters of Texas in the combined interests of navigation, flood control, drainage, agriculture, fish and wildlife conservation recreation, public health, and related purposes. Control measures will be biological for alligatorweed (using the Agasicles flea beetle), and chemical for water hyacinth (using the amine salt and butoxyethanol ester of 2, 4-D). Some risk is inherent in the use of the herbicide; dying vegetation may deplete dissolved oxygen and present a noxious condition toxic to fish. (100 pages) Comments made by USDA, DOC, EPA, DOI, State and local agencies and concerned citizens. (ELR Order No. 05641) (NTIS Order No. EIS-72 5641-F)

FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Advisor on Environmental Quality, 441 G Street NW., Washington, DC 20426, 202—386-6084.

Draft, November 13

Wisconsin River Division Project No. 2590, Portage County, Wis. The statement refers to an application for a major license filed by the Consolidated Water Power Co. for the constructed Wisconsin River Project. The project is a run of the river development consisting of a dam having a crest elevation of 1070.02; a 76-acre reservoir about 3 miles long; a powerhouse containing 1800 kw. of hydroelectric capacity and 6,090 hp. of hydromechanical capacity. As the project has been in existence for 80 years, no further environmental impact is expected. (11 pages) (ELR Order No. 05617) (NTIS Order No. IES-72 5617-D)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Environmental and Land Use, Planning Division, Washington, DC 20410, 202—755-6186.

Final, November 15

River Bend Apartments, Missouri. The statement refers to the proposed construction of a 98-unit, eight story, low- and moderate-income apartment building in the city of St. Louis. The project will increase residential density and demands on urban systems, and cause some social impact. (88 pages) Comments made by EPA, HEW, DOT, OEO. (ELR Order No. 05633) (NTIS Order No. EIS-72 5633-F)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, DC 20240, 202—343-3891.

BUREAU OF MINES

Final, November 15

Termination of Helium Purchase Contracts. The statement refers to the proposed termination of helium purchase contracts with National Helium Corp., Cities Service Helex, Inc., and Phillips Petroleum Co. Under the contracts helium is recovered from natural gas which passes to fuel markets. If the contracts terminate, the Government will forego the purchase and storage of 20.7 billion cubic feet of the gas. Approximately 35 billion cubic feet will be in Government storage by December 31, 1972. The contractors could then: Sell helium in the private market and store the surplus; continue to extract the helium as an adjunct to other operations and later discharge it; or cease helium extraction. (381 pages) Comments made by DOC, DOD, NSF, OST, OEP, AEC, NASA, EPA, FPC, HUD, TVA, State agencies of several States and concerned citizens. (ELR Order No. 05630) (NTIS Order No. EIS-72 5630-F)

BUREAU OF RECLAMATION

Final, November 13

Auburn-Folsom South Unit, several counties, California. The statement refers to a multi-purpose (water supply, irrigation, flood control, hydroelectric power, and recreation) dam and reservoir project. Also included is the Folsom South Canal, a 69-mile irrigation canal (from Lake Natoma to Lone Tree Creek). Approximately 32,815 acres will be required for the project. Of this 1,000 acres, along with 43 miles of free-flowing river, will be inundated, with adverse effects to wildlife populations. Seventeen archeologcial sites and 22 historic sites will be inundated. (255 pages) Comments made by USDA, COE, EPA, FPC, HEW, DOI, State and local agencies and concerned citizens. (ELR Order No. 05616) (NTIS Order No. EIS–72 5616–F)

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Francis Gartrell, Director of Environmental Research and Development, 720 Edney Building, Chattanooga, Tenn. 37401, 615—755–2002.

Final, November 13

Watts Bar Nuclear Plant, Units 1 and 2, Rhea County, Tenn. The statement refers to the proposed construction of a two-unit nuclear generating station. The station will employ pressurized reactors with a total capacity of 2,540 MWt. Cooling water will be drawn from Chickamauga Reservoir and circulated through natural draft towers. The station will add minute sums of radioactivity to the air and water. Approximately 967 acres of land will be required for the station, along with easements on 3,165 acres for transmission lines. (Approximately 500 pages). Comments made by AEC, USDA, DOC, COE, EPA, FPC, HEW, HUD, DOI, State agencies. (ELR Order No. 05615) (NTIS Order No. EIS–72 5615–F)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 Seventh Street SW., Washington, DC 20590, 202—426–4355.

FEDERAL AVIATION ADMINISTRATION

Final, November 13

Oxford County Regional Airport, Oxford County, Maine. The proposed project is the construction of a new general aviation airport. A 3,000-foot by 60-foot runway, a taxiway, an apron, and lighting will be included. The statement mentions no significant adverse impact. (44 pages) Comments made by AEC, COE, EPA, FPC, USDA. (ELR Order No. 05621) (NTIS Order No. EIS–72 5621–F)

FEDERAL HIGHWAY ADMINISTRATION

Draft, November 15

Santiago Canyon Road, Orange County, Calif. The project proposes construction of concreted-rock slope protection for roadway embarkments at four locations along FAS Route 1279. In addition, a concreted-rock lined channel and apron and some filling will be performed at a fifth location. The five sites are located between Silverado Canyon Road and Live Oak Canyon Road. The purpose of the project is protection against water erosion. (11 pages) (ELR Order No. 05629) (NTIS Order No. EIS–72 5629–D)

Draft, November 16

Black Blvd.—Slate Creek Expressway, Shasta County, Calif. The project consists of reconstructing a four-lane expressway with 4-foot median to a 65-m.p.h. four-lane expressway with 60-foot median from north of Black Boulevard to north of Slate Creek. Total length of the project is 5.7 miles. Approximately 200 acres of trees, brush, and grass will be cleared. Four families and one business will be displaced. (60 pages) (ELR Order No. 05639) (NTIS Order No. EIS–72 5639–D)

Draft, November 14

Relocation of U.S. 5, Hartford County, Conn. The proposed project involves the corridor determination for the relocation of U.S. 5 as a limited access expressway from the vicinity of Governor Street in East Hartford to I–291 in South Windsor. Nine residences and four businesses will be affected. Approximately 150 acres, much of it located in the Connecticut River Flood Plain, is required for right-of-way. A 4(f) review for encroachment on 26 acres of "open space" land owned by the Town of East Hartford is included. (109 pages) (ELR Order No. 05627) (NTIS Order No. EIS–72 5627–D)

S.R. 365, Hall and Habersham Counties, Ga. The statement refers to the proposed extension of S.R. 365 from the present terminus at Gainesville to a point west and north of Cornelia. The 22-mile extension will be on new location. Erosion and siltation may cause damage to fish spawning waters in the Chattahoochee River and Lake Sidney Lanier. Eighteen families and one business will be displaced. An unspecified amount of land will be acquired to provide a 300-foot right-of-way. (116 pages) (ELR Order No. 05626) (NTIS Order No. EIS–72 5626–D)

Draft, November 17

I–70N, Baltimore County, Md. This is a revised draft statement (draft filed May 4, 1971) for the design and construction of an eight-lane controlled access freeway known as I–70N from Ingleside Avenue and existing I–70N to Ellicott Driveway. Total length of the project is 3.5 miles. Adverse impacts, depending upon the alternate selected, include housing displacement varying from 0 to 1,200; major business displacements, acoustic impacts, and possible encroachment on park lands. (81 pages) (ELR Order No. 05643) (NTIS Order No. EIS–72 5643–D)

Draft, November 14

U.S. 212, Yellow, Medicin, and Renville Counties, Minn. The statement refers to a corridor study for the relocation and reconstruction of an 8.5-mile segment of U.S. 212 to bypass the city of Granite Falls. The project includes a 0.5 mile connection for proposed T.H. 23 east of Granite Falls. The Minnesota River backwater flood plain will be encroached upon. Approximately 375 acres of land will be committed to the project. One farmstead will be displaced and some property severed. (87 pages) (ELR Order No. 05624) (NTIS Order No. EIS–72 5624–D)

S–1110(2)–Bayard to Vanadium, Grant County, N. Mex. The proposed project is the improvement of 1.8 miles of S–1110 (2). Two residences, two mobile homes and one business will be displaced. Adverse effects will include increases in air and noise pollution. (14 pages), (ELR Order No. 05625) (NTIS Order No. EIS–72 5625–D)

Final, November 16

U.S. 41, Lee and Collier Counties, Fla. The proposed project involves four-laning a segment of U.S. 41 (SR 45) from south of Bonita Springs to north of Estern. Project length is 11.4 miles. The number of displacements will depend upon the route taken. Temporary increases in the turbidity of the water will occur where bridges are constructed spanning Halfway Creek and the Eastern River. (54 pages) Comments made by USDA, COE, EPA, HEW, DOI. (ELR Order No. 05634) (NTIS Order No. EIS–72 5634–F)

Final, November 13

State Route 64 (F.A. Route 28) Illinois, county: Ogle. The proposed project is the construction of a four-lane highway, 0.705 mile in length, located on S.R. 64. Land acquisition will include 1.8 acres. A storm sewer outlet will be constructed on the east bank of the Rock River causing an increase in water pollution. (85 pages) EIS 72 5619–F Comments made by: USDA, DOC, DOT, EPA, HUD, and State agencies. (ELR Order No. 05619) (NTIS Order No. EIS 72 5619–F)

F.A.S. Route 1746, Kansas, county: Shawnee. The proposed project is the highway improvement, including a bridge and channel, of F.A.S. Route 1746. Length is 0.208 mile. Four acres will be acquired for the project. A section 4(f) will be filed to obtain land from a public park. The Stinson Creek will be rechanneled. Loss of wildlife and increases of erosion and water pollution will occur. (27 pages) Comments made by: USDA, COE, DOI, HEW, HUD, and State agencies. (ELR Order No. 05622) (NTIS Order No. EIS 72 5622–F)

Final, November 9

Fifth Street North (U.S. 2), N. Dak., county: Grand Forks. The proposed project is the widening and resurfacing of Fifth Street North. The length is approximately nine blocks. Adverse effects will include increased noise pollution and loss of trees. (35 pages) Comments made by: DOI, EPA, HEW, HUD, and State agencies. (ELR Order No. 05606) (NTIS Order No. EIS 72 5606–F)

Traffic Routes 22 and 220, Pennsylvania, county: Blair. The proposed project is the construction of TR 22 and TR 220 on new location. The length of TR 22 will be 4.88 miles and TR 220, 4.36 miles. The projects will displace 63 single-family dwellings, two multifamily dwellings, 13 mobile homes, 13 businesses, and 60 other structures. The projects will encompass one spring and part of the Kittanning Indian Trail, requiring the relocation of a monument. Increases in water pollution and in noise pollution, affecting three high schools will occur. (226 pages) Comments made by: USDA, DOI, DOT, EPA, FPC, HUD, and State and local agencies. (ELR Order No. 05605) (NTIS Order No. EIS 72 5605–F)

Final, November 13

State Route 71, Texas, county: Fayette. The proposed project is the construction of S.R. 71 from a two-lane to a four-lane divided highway. Two hundred and ten acres of land will be acquired. One family and one business will be displaced. Natural drainage of stream will be closed by concrete drainage structure. Increased water pollution will occur. (48 pages) Comments made by: USDA, COE, DOI, DOT, EPA, HEW, and local agencies. (ELR Order No. 05618) (NTIS Order No. EIS 72 5618–F)

Final, November 9

U.S. 12, Wisconsni, county: Dane. The proposed project is the construction and partial relocation of a portion of U.S. 12; length is 6 miles. Approximately 72 acres will be acquired. The project will displace 17 families, three mobile homes, and 12 businesses. Wetlands will be acquired for the project. Increases in noise pollution are expected. (59 pages) Comments made by: USDA, DOI, HEW, HUD, EPA, and State, regional, and local agencies. (ELR Order No. 05607) (NTIS Order No. EIS 72 5607–F)

Final, November 13

Highway 27, Wisconsin, county: Monroe. The proposed project is the reconstruction of Highway 27 to a four-lane divided highway. The project will include bridge structures over the C.M. St.P and P., C. and N.W. Railroads and the La Crosse River. Acquisition of 415 acres of industrial zoned land will be required. Two families and one business will be displaced. Adverse effects will include increases in noise, water, and air pollution. (29 pages) Comments made by: USDA, DOI, EPA, and one State agency. (ELR Order No. 05620) (NTIS Order No. EIS 72 5620–F)

U.S. COAST GUARD

Draft, November 17

Kodiak Sewage Disposal System, Alaska. A sewage disposal system is proposed for USCG Base Kodiak. The system will consist of collection and treatment facilities in accordance with the Federal Water Pollution Control Act, as amended. Sewage is presently collected and discharged, without treatment, directly into tidal waters of St. Paul Harbor. (9 pages) (ELR Order No. 05644) (NTIS Order No. EIS 72 5644–D)

Final, November 9

Little Lake Butte des Morts, Wis., county: Winnebago. The statement considers the approval of plans and location for a medium level, multispan fixed highway bridge across Little Lake Butte des Morts. The project will connect two sections of the town of Menasha. Six residences will be displaced by the action. (30 pages) Comments made by: COE, DOI, DOT, HEW, and HUD. (ELR Order No. 05600) (NTIS Order No. EIS 72 5600–F)

BRIAN P. JENNINGS,
Acting General Counsel.

[FR Doc.72–20448 Filed 11–28–72;8:48 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	*Owner/operator and vessels*
01103---	Poseidon Schiffahrt Gesellschaft mit beschrankter Haftung: Parzival.
01105---	Tschudi & Eitzen: Sinader.
01172---	H. Clarkson & Co., Ltd.: Sealnes.
01805---	Suisse Atlantique Societe d'Armement Maritime S.A.: Los Andes.
01861---	BP Tanker Co., Ltd.: British Humber.
01905---	The Ben Line Steamers, Ltd.: Benalder.
02271---	Amer-Tupakka OY: Finn-Amer.
02303---	Interessentskapet Seahorse: Concordia Seahorse.
02417---	Norfolk, Baltimore & Carolina Line, Inc.: Container Transport No. 1.
02715---	Allied Towing Corp.: Hot Oil 17.
02844---	Gloria Bahama, Ltd.: Argo II.
02861---	Naviera Bilbaina, S.A.: Deusto.
02877---	Nippon Yusen Kabushiki Kaisha: Kurobe Maru.
02956---	Ashland Oil, Inc.: JN–102.
02961---	Kobe Kisen Kabushiki Kaisha: Asahi Maru.
03458---	Matsuoka Kisen Kabushiki Kaisha: Arizona Maru.
03459---	Meiji Kaiun K.K.: Meiryu Maru.
03462---	Mitsubishi Koseki Yuso K.K.: Santa Catalina Maru.
03479---	Okada Shosen Kabushiki Kaisha: Settsu Maru.
03484---	Sanko Kisen K.K.: Cypress King. Kyokkomaru. Ryuko Maru.
03501---	Osaka Shosen Mitsui Senpaku K.K.: Ibaraki Maru.
03519---	Toko Shosen K.K.: Riko Maru.
03623---	Smith-Rice Derrick Barges, Inc.: Scow 3.
03640---	Pan Ocean Bulk Carriers, Ltd.: Pan Korea.
03730---	Brown & Root, Inc.: HCC 101. HCC 103.
04007---	Egon Oldendorff: Baarn. Barneveld. Breda. Bennekom.
04074---	Tankore Corp.: Santos.
04128---	Skips A/S Westray: Brunvard. Brunhild. Rumba. Jenka. Mambo. Bruni. Brunette.
04356---	Pacific Far East Line, Inc.: Philippine Bear.
04543---	Mr. Iwao Miki: Keifukumaru No. 17.
04544---	Mr. Yosuke Kawaguchi: Seishumaru No. 35.
04596---	Pan-Alaska Fisheries, Inc.: Willow.
05562---	Weeks Dredging & Contracting, Inc.: Weeks No. 254. Weeks No. 255.
05935---	Anaqua Corp. of Panama: Anaqua.
06114---	Masahei Yamamoto: Seishumaru No. 7. Seishumaru No. 12. Seishumaru No. 31. Seishumaru No. 32. Seishumaru No. 33.
06561---	Komandittselskapet Cruise Venture A/S & Co.: Island Princess.
06570---	Tenax Steamship Co., Ltd.: Saltnes. Spraynes.
06648---	Dietrich Sander Bereederungs G.m.b.H.: Kalkgrund.
06662---	Reederei Claus-Peter Offen KG: Holstenfleet.
06687---	Globus Shipping Co. (Pte.) Ltd.: Vavajo.
06775---	Whitco (Marine Services), Ltd.: Iris Queen. Maranga.
06816---	Marine Contracting & Towing Co.: Martoco Barge No. 13. Martoco Barge No. 12.
06877---	Societe Francaise de Transports Maritimes: Bretagne.
06934---	Chevron Navigation Corp.: Chevron Brussels.
07019---	Allied Shipping International Corp.: Golden Swan. Golden Robin.
07132---	Rising Sun Shipping S.A.: Tayabas Bay.
07146---	Kingdom Navigation S.A. Panama: British Mariner.
07187---	Ermionis Shipping Co. S.A.: Apostolos K.
07206---	Australian Coastal Shipping Commission: Australian Endeavour.
07231---	Mid-Stream Fuel Service, Inc.: Z–65.
07232---	Bridge Transport Corp.: Josephine.
07247---	Luzon Shipping S.A.: Manila Bay.
07254---	Temple Shipping, Inc.: Lord Niagara.
07263---	Santa Martha Bay Shipping & Trading Co., Ltd.: Rijn.
07276---	Anglo-Pacific Line Ltd.: Papeete. Bauxite Fiji.
07290---	Hollywood Terminals, Inc.: KE–36. KE–37. KE–38.
07308---	Del Bene Ultramar S.A.C.I. yF: Portloe. Caminito.
07325---	The Maersk Co. Ltd.: Maersk Commander.
07326---	Universal Marines Lines, Inc., S.A.: Universal King.
07327---	Marcomando Armadora S.A.: Kapetanissa.
07329---	Stala Comp. Naviera S.A.: Ithaki Kathara.
07330---	Companhia Internationale Juntura Tankers S.A.: Japan Itochu.
07340---	Man Cheung Yuen Shipping Co., Ltd., S.A.: Dawn Grandeur.
07343---	Bigge Drayage Co.: Bigge No. 2.
07348---	K/S A/S Sea-Team & Co.: Anglia Team.
07350---	Eratini Compania Naviera S.A. Panama: Tolofon.
07360---	Hokuyo Suisan Kabushiki Kaisha: Koyo-Maru.
07361---	Mr. Yasohachi Nakamura: Kaiomaru No. 18. Kaiomaru No. 32. Kaiomaru No. 35.
07365---	Rederiet for M/S Virginia: Virginia.
07367---	Alliance Marine Corp.: Conwell.

Certificate No.	Owner/Operator and Vessels
07368---	Lake Charles Towing Co., Inc.: L.C.T. No. 19. L.C.T. No. 18. L.C.T. No. 32, L.C.T. No. 31. L.C.T. No. 26. L.C.T. No. 27. L.C.T. No. 44. L.C.T. No. 42. L.C.T. No. 40. L.C.T. No. 43. L.C.T. No. 33. L.C.T. No. 41. L.C.T. No. 20. L.C.T. No. 21. L.C.T. No. 54. L.C.T. No. 55. L.C.T. No. 22. L.C.T. No. 23. L.C.T. No. 15. L.C.T. No. 16.
07369---	Herlofson Shipping Co. A/S; Skibsaktieselskapet Ollexpress; Skibsaktieselskapet Herva; Skibsaktieselskapet Cecil; Skibsaktieselskapet Jolund: Bulk Promoter.
07370---	Elanka Compania Naviera S.A. Panama: Scapbay.
07371---	Interessentskapet Bajka: Bajka.
07372---	Helen M Transportation Co.: Frio. Nueces.
07379---	Lefkonia Compania Naviera S.A.: Argiro.
07381---	Kaliana Shipping Co., Ltd.: Lydia P.
07382---	Marushin Senpaku Kabushiki Kaisha: Ocean Trader.
07383---	Grand Olympia (Panama) S.A.: Olympia Faith.
07385---	Theodor Mengdehl & Co.: Amisia.
07386---	Majestic Carriers, Inc.: Eastern Saga.
07387---	Wiards Seereederei MS. Verena Wiards KG.: Klaus Schoke.
07388---	Reading & Gates Exploration Co.: S-22.
07391---	Clean Seas Inc.: Tide Mar VII.
07394---	Georgian Shipping Enterprises S.A. Panama: Panaghia Lourion.
07397---	Aurora Australis Compania Armadora S.A.: Sorokos.
07398---	Tasman Navigation Corp., Ltd.: Wenonna.
07400---	Abyreuth Ltd.: Dora.
07401---	Naviera de Exportacion Agricola, S.A.: Benimar. Benisa. Beniali. Benimusa. Benisalem. Beniajan. Benifaraig. Benimamet.
70402---	Naviera Del Nalon, S.A.: Mina Entrego. Mina Coto.
07404---	Hanseatic Shipmanagement, Ltd.: Lissy Schulte.
07405---	Hesnes Shipping, Ltd.: Hesnes Erik.
07407---	United International Cargo Carriers, Ltd.: Chalmette.
07408---	Intermaritime Carriers, S.A.: Ellaki.
07409---	Gerd Ernst de Buhr Reederei: Blankenburg.
07410---	North Sea Shipping Corp.: Furka.
07411---	Arco Compania Naviera S.A.: Provimi Star.
07413---	Achilles Navigation Corp.: Ioannis Chandris.
07419---	Naviera Mercurio S.A.: Crystal Orchid.
07422---	Trans-American Lines, S.A.: Transamerica.
07431---	Sociedad Armadora Insular S.A.: Ostria.
07434---	Mr. Yoshihiro Nakamura: Kotoshiromaru No. 3.
07435---	Kabushiki Kaisha Yoshida Kiyoshi Shoten: Taiyo Maru No. 32.
07436---	Kabushiki Kaisha Fukuyoshi Maru: Fukuyoshi Maru No. 35.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-20474 Filed 11-28-72;8:50 am]

FEDERAL RESERVE SYSTEM

INDIAN HEAD BANKS, INC.

Acquisition of Bank

Indian Head Banks, Inc., Nashua, N.H., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 53.68 percent or more of the voting shares of the Lakeport National Bank of Laconia, Lakeport, N.H. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 18, 1972.

Board of Governors of the Federal Reserve System, November 21, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20421 Filed 11-28-72;8:45 am]

REDWOOD BANCORP

Proposed Acquisition of National Mortgage Co.

Redwood Bancorp, San Rafael, Calif., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of National Mortgage Co., Salt Lake City, Utah. Notice of the application was published on November 17, 1972, in the Salt Lake Times, a newspaper circulated in Salt Lake City, Utah; on November 15, 1972, in the Post & Register, a newspaper circulated in Idaho Falls, Idaho; and on November 14, 1972, in the Daily Reporter, a newspaper circulated in Tucson, Ariz.

Applicant states that the proposed subsidiary would engage in the activities of originating and servicing mortgage loans and acting as agent or broker in the sale of insurance directly related to extensions of credit. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 19, 1972.

Board of Governors of the Federal Reserve System, November 22, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-20422 Filed 11-28-72;8:46 am]

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Implementation Regulations

1. Persons eligible for benefits.
2. Assurance of adequate replacement housing prior to displacement.
3. Definition of decent, safe, and sanitary dwellings.
4. Moving and related expenses allowable under section 202(a) of the Act.
5. Exclusions on moving expenses and losses.

These regulations prescribe procedures for the U.S. Section of the International Boundary and Water Commission, United States and Mexico, hereinafter called the U.S. Section, in implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646 (84 Stat. 1894), hereinafter called the Act. The Act and these regulations provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal programs and establish uniform and equitable land acquisition policies for Federal programs. The regulations shall be effective retroactively on and after January 2, 1971.

1. *Persons eligible for benefits.* Those eligible for benefits under these regulations are those persons, including individuals, partnerships, corporations or associations, who on or after January 2, 1971, move from real property, or move their personal property from real property, as a result of the acquisition of such real property by the U.S. Section, or move as the result of a written notice from the U.S. Section to vacate real property.

A person who lives on his business or farm property may be eligible for both moving and related expenses as a dwelling occupant in addition to being eligible for payments with respect to a business or farm operation. Also eligible, but only for payment of moving and related expenses and for relocation assistance advisory service as hereinafter provided are those persons who move as a result of the U.S. Section's acquisition of or as the result of a written notice from the U.S. Section to vacate other real property, on which any such person conducts a business or farm operation. The U.S. Section must serve personally or by certified (or registered) first class mail a written notice of displacement to each individual, family, business, or farm to be displaced.

(a) In order to qualify for benefits under these regulations, either of two conditions must be met:

(1) The person must have received a written notice to vacate, which may be given before or after initiation of negotiations for acquisition of the property; or

(2) The property must, in fact, have been acquired and the person must have moved as a result of its acquisition.

(b) A displaced person may not be paid for more than one move in relation to a single project unless the Chief, Real Estate Division, finds it to be equitable to pay for a subsequent move and gives approval for such payment prior to the subsequent move.

(c) For real property acquisitions under Federal law, contracts or options to purchase real property shall not incorporate provisions for making payments for relocation costs and related items in title II of the Act. Appraisers shall not give consideration to or include in their real property appraisals any allowances for the benefits provided by title II. In the event of condemnation with a declaration of taking, the estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under title II of the Act.

2. *Assurance of adequate replacement housing prior to displacement.* Prior to the institution of any new project, and as soon as practicable with respect to any current project involving the displacement of any person, the Chief, Real Estate Division, shall determine that, within a reasonable period of time prior to displacement, there will be available on a basis consistent with title VIII of the Civil Rights Act of 1968 (Public Law 90-284), decent, safe, and sanitary dwellings, as described below, equal in number to the number of, and available to, such displaced persons who require such dwellings and reasonably accessible to their places of employment. Such dwellings shall be in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents and prices within the financial means of the families and individuals displaced. Such determination shall be based on a current survey and analysis of available replacement housing, which shall take into account the competing demands on available housing.

3. *Definition of decent, safe, and sanitary dwellings.* A decent, safe, and sanitary dwelling is one which is found to be in sound, clean, and weathertight condition, and which meets local housing codes for the type of dwelling. If there are no applicable local housing codes, a housekeeping unit must include a kitchen with fully usable sink; a stove or connections for same; a separate complete bathroom; hot and cold running water in both the bathroom and kitchen; and adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and regional housing codes. A nonhousekeeping unit shall meet local standards customary for boarding houses, hotels, or other congregate living in the area. Any dwelling unit considered suitable as replacement housing must be reasonably convenient to such community facilities as schools, stores, and public transportation.

4. *Moving and related expenses allowable under section 202(a) of the Act.* Upon receipt by the U.S. Section of a proper application for any displaced person who is eligible and elects to receive the benefits of section 202(a) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the U.S. Section will reimburse the displaced person for actual reasonable expenses incurred by him in moving as follows:

(a) Transportation of individuals, families, and property from the acquired site to the replacement site, not to exceed a distance of 50 miles, except where the Chief, Real Estate Division, determines that relocation beyond the 50-mile area is justified.

(b) Packing, and unpacking, crating, and uncrating of personal property.

(c) Advertising for packing, crating, and transportation when the Chief, Real Estate Division, determines that it is necessary.

(d) Storage of personal property for a period generally not to exceed 12 months when the Chief, Real Estate Division, determines that storage is necessary in connection with relocation.

(e) Insurance premiums covering loss and damage of personal property while in storage or transit.

(f) Removal, reinstallation, and reestablishment of machinery, equipment, appliances, and other items, not acquired as real property, including reconnection of utilities, which do not constitute an improvement to the replacement site, except when required by law. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personalty and that the U.S. Section is released from any payment for the property.

(g) Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agent or employees), in the process of moving, where insurance to cover such loss or damage is not available.

(h) Such other reasonable expenses determined to be eligible under regulations issued by the U.S. Section.

(i) If the displaced person accomplishes the move himself, he shall be paid an amount not to exceed the estimated cost of moving commercially.

(j) When an item of personal property which is used in connection with any business or farm operation is not moved but is sold and promptly replaced with

a comparable item, reimbursement shall not exceed the replacement cost minus the proceeds received from the sale or the cost of moving, whichever is less.

(k) When personal property which is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, in the sole judgment of the Chief, Real Estate Division, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision is applicable in such cases as the moving of junkyards, stockpiled sand, gravel, minerals, metals, and similar type items of personal property.

(l) If the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to or in excess of the in-place value of the display, consideration will be given to acquiring such display or displays as a part of the real property.

(m) In the case of a business or farm operation, if the displaced person does not move the personal property he shall be required to make a bona fide effort to sell it. If the personal property is sold and the business or farm operation re-established, he is entitled to payment provided in (j) above. If the business or farm operation is discontinued, the displaced person is entitled to the difference between the in-place value of the personal property and the sale proceeds, or the cost of moving, whichever is less. If the personal property is abandoned, he is entitled to payment for the difference between the in-place value and the amount which would have been received from the sale of the item, or the cost of moving, whichever is less. The cost of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

(n) Expenses, not to exceed $500, unless the Chief, Real Estate Division, determines that a greater amount is justified, in searching for a replacement business or farm as follows:

(1) Travel costs at 10 cents a mile, not to exceed 300 miles, or the equivalent in public transportation fares.

(2) Costs for meals and lodging for no more than the equivalent of 3 full days of searching, at a rate of $2.50 for each meal and $12 for each night spent in a motel or other accommodation.

(3) Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed $10 per hour and not to exceed the equivalent of 3 full days of searching.

(4) Broker, realtor, or other professional fees in locating a replacement business or farm operation, provided the Chief, Real Estate Division, has approved such employment in advance.

5. *Exclusions on moving expenses and losses.* Reimbursement for moving expenses shall not include:

(a) Additional expenses incurred because of living in a new location.

(b) Cost of moving structures, improvements, or other real property in which the displaced person reserved ownership.

(c) Improvements to the replacement site, except when required by law.

(d) Interest on loans to cover moving expenses.

(e) Loss of goodwill.

(f) Loss of profits.

(g) Loss of trained employees.

(h) Personal injury.

(i) Cost of preparing the application for moving and related expenses.

(j) Modification of personal property to adapt it to the replacement site, except when required by law.

(k) Payment for search cost in connection with locating a replacement dwelling.

(l) Such other items as the Chief, Real Estate Division, determines should be excluded.

6. *Payments under section 202 (b) and (c) of the Act in lieu of moving and related expenses.*—(a) *Dwellings.* Any displaced person eligible for payments under 4 above who is displaced from a dwelling may elect to accept the following payments in lieu of the payments authorized under 4 above.

(1) A moving expense allowance, not to exceed $300, based on schedules maintained by the State Highway Department of the State where the displacement occurs.

(2) A dislocation allowance of $200.

(b) *Businesses.* Any displaced person eligible for payments under 4 above who is displaced from his place of business as defined in subsection 101(7) (A), (B), and (C) of the Act, or from his farm operation, may elect to accept the following payments, in lieu of the payments authorized by 4 above: A fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than $2,500 nor more than $10,000. The term "average annual net earnings" means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. If a business or farm operation has no net earnings, or has suffered losses during the period used to compute "average annual net earnings" it may nevertheless receive the $2,500 minimum payment.

Those businesses described in subsection 101(7) (D) of the Act are not eligible for a payment in lieu of moving and related expenses.

To be eligible for such payment, the business must contribute materially to the income of the displaced owner. Part-time family occupations which do not contribute materially to a displaced person's income are not eligible. Also, no payment shall be made hereunder unless the Chief, Real Estate Division, is satisfied that the business cannot be relocated without a substantial loss of its existing patronage and is not a part of a commercial enterprise having at least one other establishment not being acquired by the U.S. Section which is engaged in the same or similar business. In determining whether the business cannot be relocated without a substantial loss of its existing patronage, the following factors will be considered:

(1) The type of business conducted by the displaced person.

(2) The nature of the clientele of the displaced concern.

(3) The relative importance of the present and proposed location of the displaced business.

Where an entire farm is not acquired, payment hereunder will be made only if the Chief, Real Estate Division, determines that prior to its acquisition the farm met the definition of a farm operation set out in section 101(8) of the Act and that the property remaining after acquisition is no longer an economic farm unit.

(c) *Nonprofit organizations.* Where a nonprofit organization is displaced, no payment shall be made under subsection 202(c) until after the Chief, Real Estate Division, determines:

(1) That the nonprofit organization cannot be relocated without a substantial loss of its existing patronage. The term "existing patronage" as used in connection with nonprofit organizations includes the persons, community, or clientele served or affected by the activities of the nonprofit organization.

(2) That the nonprofit organization is not part of an organization having at least one other establishment not being acquired which is engaged in the same or similar activity.

7. *Submittal of claims.* All claims of reimbursement of moving expenses or for payments in connection with such expenses, as provided above, and all claims for the payment of housing supplements or payments in connection with such supplements, as provided below, must be submitted to the Chief, Real Estate Division, on prescribed forms no later than 18 months from the date of displacement.

8. *Replacement housing payments to homeowners under section 203(a) of the Act*—8.1 *Payments.* In addition to payments for moving and related expenses, a displaced person may receive payment not in excess of $15,000 if such person was displaced from a dwelling actually owned ("owned" refers to an interest in the title which allows absolute physical control) and occupied by him for not less than 180 days immediately prior to the initiation of negotiations for the acquisition of the property on which the dwelling is located and purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of 1 year from the date he receives payment for the acquired dwelling or the date he moves from said dwelling, whichever is the later date. Such

payment shall consist of the following:

(a) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the U.S. Section equals the reasonable cost of a comparable replacement dwelling as established by the U.S. Section. A comparable replacement dwelling for such purpose shall be deemed to be one which is decent, safe, and sanitary and as functionally equivalent to and substantially the same as the acquired dwelling with respect to: the number of rooms, area of living space; age; state of repair; open to all persons regardless of race, color, religion, sex, or national origin and consistent with the requirements of the Civil Rights Acts of 1964 and 1968; located in an area not generally less desirable than the dwelling being acquired with respect to neighborhood conditions, including but not limited to municipal services and other environmental factors; public utilities and public commercial facilities; reasonably accessible to the relocatee's place of employment; available on the market to the displaced person; and, within the financial means of the displaced family or individual.

(b) The amount, if any, necessary to compensate a displaced person for any increased interest costs, including points paid by the purchaser. Such amount shall be paid only if the acquired dwelling was encumbered by a bona fide mortgage. The following shall be considered:

(1) The payment shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the bona fide mortgage on the acquired dwelling, at the time of acquisition, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value;

(2) The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located;

(3) A "bona fide mortgage" is one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations;

(4) However, the interest payment shall be based on the present value of the reasonable cost of the interest differential, including points paid by the purchaser, on the amount financed not to exceed the amount of the unpaid debt on the acquired dwelling for its remaining term.

(c) The amount, if any, necessary to reimburse a displaced person for actual costs incurred by him incident to the purchase of the replacement dwelling (but not including prepaid expenses) such as:

(1) Legal, closing, and related costs including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation;

(2) Lenders', FHA or VA, appraisal fees;

(3) FHA application fee;

(4) Certification of structural soundness when required by lender, FHA or VA;

(5) Credit report;

(6) Title policies or abstracts of title;

(7) Escrow agent's fee; and

(8) State revenue stamps or sale or transfer of taxes.

No fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Public Law 90–321, and Regulation "Z" (12 CFR Part 226), issued pursuant thereto by the Board of Governors of the Federal Reserve System.

8.2 *Computation of replacement housing payment—Differential payment for replacement housing.* The Chief, Real Estate Division, may determine the amount which, if any, when added to the acquisition cost of the dwelling acquired by the displacing agency, is necessary to purchase a comparable replacement dwelling by either establishing a schedule or by using a comparative method.

(a) *Schedule method.* The U.S. Section may establish schedule of reasonable acquisition costs for comparable replacement dwellings of the various types of dwellings to be acquired and available on the private market. The schedule shall be based on a current market analysis sufficient to support determinations of the amount for each type of dwelling to be acquired. When more than one Federal agency is causing displacement in a community or an area, the heads of the agencies concerned shall coordinate the establishment of the schedule for replacement housing payments.

(b) *Comparative method.* The U.S. Section may determine the price of a comparable replacement dwelling by selecting a dwelling or dwellings most representative of the dwelling unit acquired, available to the displaced person, and which meets the definition of comparable replacement dwelling. A single dwelling shall be used only when additional comparable dwellings are not available.

(c) *Alternate method.* The Chief of the Real Estate Division may develop criteria for computing replacement housing payments when neither the schedule method nor the comparative method is feasible.

8.3 *Limitations.* The amount established by 8.1(a) as the differential payment for the replacement housing sets the upper limit of such payment. To qualify for the full amount the displaced person must purchase and occupy a decent, safe, and sanitary dwelling as established by the U.S. Section.

(a) If the displaced person on his own voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the reasonable cost of a comparable replacement dwelling as established by the U.S. Section, the differential payment will be reduced to that amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(b) If the displaced person on his own voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisition price of the acquired dwelling, no differential payment under 8.1(a) shall be made.

9. *Replacement housing payments to tenants and certain others under section 204 of the Act.*— 9.1 *Payments.* (a) The U.S. Section will make a payment to or for any person displaced from any dwelling not eligible to receive a payment under paragraph 8 of these regulations, which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days prior to the initiation of negotiations for acquisition of such dwelling. Such payment shall be either:

(1) The amount computed under 9.2 below to enable such displaced person to lease or rent for a period not to exceed 4 years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed $4,000; or

(2) The amount necessary to enable such person to make a downpayment, including incidental expenses described in 8.1(c) above, on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and commercial and public facilities, but not to exceed $4,000, except that if such amount exceeds $2,000, such person must equally match any such amount in excess of $2,000 in making the downpayment.

(b) An owner-occupant otherwise eligible for a payment under paragraph 8.1 of these regulations but who rents instead of purchases a replacement dwelling is eligible for replacement housing as a tenant (see 9.2 and 9.5 below).

9.2 *Computation of replacement housing payment for displaced tenants—rental replacement housing payment.* The Chief, Real Estate Division, may establish the amount necessary to rent a suitable replacement dwelling by either establishing a schedule or by using a comparative method.

(a) *Schedule method.* The payment should be computed by determining the amount necessary to rent a suitable replacement dwelling for 4 years (the average monthly cost from the schedule) and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations if such rent is reasonable, or if not reasonable, 48 times the monthly economic rent for the the dwelling unit. For purposes of these regulations, economic rent is defined as the amount of rent the displaced tenant would have had to pay for a similar dwelling unit in areas not generally less desirable than the dwelling unit to be acquired. The schedule should be based on a current analysis of the market to

determine an amount for each type of dwelling acquired.

(b) *Comparative method.* The average month's rent may be determined by selecting one or more dwellings representative of the dwelling unit acquired, available on the private market which meets the definition of a suitable replacement dwelling. The payment should be computed by determining the amount necessary to rent for 4 years a suitable replacement dwelling and subtracting from the amount so determined 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations or if not reasonable, 48 times the monthly economic rent for the dwelling unit established by the U.S. Section.

(c) *Exceptions.* The Chief of the Real Estate Division may establish the average month's rent paid by the displaced person by using more than 3 months, if he deems it advisable. If rent is being paid to the displacing agency, economic rent shall be used in determining the amount of the payment to which the displaced tenant is entitled.

(d) *Alternate to (a) and (b), above.* When neither method is feasible, the Chief, Real Estate Division, shall develop criteria for computing the payment.

9.3 *Disbursement of rental replacement housing payment.* All rental replacement housing payments in excess of $1,000 will be made in four equal installments on an annual basis. Before making each installment payment, the Chief, Real Estate Division, must verify that the tenant is still in decent, safe, and sanitary housing.

9.4 *Purchases—replacement housing payment.* If the tenant elects to purchase a replacement dwelling instead of renting, the payment shall be computed by determining the amount necessary to enable him to make a downpayment and to cover incidental expenses on the purchase of replacement housing.

(a) The downpayment shall be the amount necessary to make a downpayment on a suitable replacement dwelling. Determination of the amount "necessary" for such downpayment shall be based on the amount of downpayment that would be required for a conventional loan.

(b) Incidental expenses of closing the transaction as described in paragraph 8.1(c) above.

(c) The full amount of the downpayment must be applied to the purchase price and such downpayment and incidental costs must be shown on the closing statement.

9.5 *Computation of replacement housing payments for certain others.* (a) A displaced owner-occupant eligible under paragraph 8 of these regulations who elects to rent rather than purchase a replacement dwelling may receive a rental replacement housing payment not to exceed $4,000. The payment shall be computed in the same manner as shown in 9.2 above, with the following additional criteria:

(1) The present rental rate for the acquired dwelling shall be economic rent as determined by market data; and

(2) The payment may not exceed the amount which the displaced owner-occupant would have received had he elected to receive a replacement housing payment under paragraph 8 of these regulations.

(b) A displaced owner-occupant who does not qualify for a replacement housing payment under paragraph 8 of these regulations because of the 180-day occupancy requirement but qualifies under paragraph 9 and elects to rent is eligible for a rental replacement housing payment not to exceed $4,000. The payment shall be computed in the same manner as shown in 9.2 above, except that the present rental rate for the acquired dwelling shall be economic rent as determined by market data.

(c) A displaced owner-occupant who does not qualify for a replacement housing payment under paragraph 8 of these regulations because of the 180-day occupancy requirement but qualifies under paragraph 9 and elects to purchase a replacement dwelling is eligible for a replacement housing payment pursuant to 9.1(b), which payment shall be computed in the same manner as shown in 9.4 above.

10. *Initiation of negotiations.* The term "initiation of negotiations" for real property means the date the U.S. Section makes the first contact with the owner or his representative when the U.S. Section's offer for the real property to be acquired is discussed or is presented in writing. When an offer to purchase is presented by mail, the initiation of negotiations will be considered to be the third day after the date of mailing. The U.S. Section will advise tenants and other occupants of the date negotiations begin with the owner.

11. *Relocation assistance advisory services under section 205 of the Act.* The Chief, Real Estate Division, will establish and maintain a program to provide advice and assistance, where needed, to persons displaced as a result of the acquisition of real property. Such program shall provide pertinent and current information regarding the availability, prices, and rentals of proper replacement properties; offer assistance in obtaining and relocating to such properties; and take such steps required to secure the cooperation of other agencies which may be of assistance in order to minimize hardships and assure that displaced persons receive the maximum assistance available to them. To the extent that the services of a central relocation agency are available to render assistance, such services will be used.

12. *State agency required to furnish real property incident to Federal project.* In those programs where real property is acquired by a State agency and furnished as a required local contribution to the U.S. Section project, the U.S. Section may not accept such property unless such State agency has made all payments and provided all assistance and assurances, as are required of a State agency by section 210 and 305 of the Act and according to these regulations. In its application of these regulations, the State agency acquiring the real property shall perform the functions, make the payments, and grant the assistance that would be required of the U.S. Section were it acquiring real property under the Act and these regulations. The head of such State agency shall perform the functions that would otherwise be performed by the Commissioner, U.S. Section, under the Act and these regulations, and the head of the Right-of-Way Department or Right-of-Way Section of such State agency shall perform the functions that would otherwise be performed by the Chief, Real Estate Division, under the Act and these regulations.

(a) *Reimbursement to State agency.* In those programs where real property is acquired by a State agency and furnished as a required local contribution to the U.S. Section project, the U.S. Section shall reimburse such State agency 100 percent of the first $25,000 of the cost of providing the payments and assistance required by the Act and these regulations in the case of any real property acquisition or displacement occurring prior to July 1, 1972. Where eligible persons are displaced, or the real property acquired, prior to July 1, 1972, the full amount of the first $25,000 of relocation payments are made prior to or subsequent to July 1, 1972.

(b) *Other federally assisted programs.* The U.S. Section has no programs, other than as above provided, affording Federal financial assistance within the meaning of the Act. If any such programs should be instituted, appropriate regulations and relocation assistance procedures relating thereto will be adopted.

13. *Uniform real property acquisition policy.* Before negotiations are initiated for acquisition of real property, the Chief, Real Estate Division, will cause the property to be appraised and establish an amount believed to be just compensation therefor. The appraiser shall afford the owner or his representative an opportunity to accompany him during his inspection of the property.

When negotiations are initiated to acquire real property, the owner will be given a written statement of, and summary of the basis for, the amount estimated as just compensation. The statement will identify the property and the interest therein to be acquired, including buildings and other improvements to be acquired as a part of the real property, the amount of the estimated just compensation, and the basis therefor. If only a portion of the property is to be acquired, the statement will include a statement of damages and benefits, if any, to the remainder.

14. *Surrender of possession.* Possession of real property will not be taken until the owner has been paid the agreed

purchase price or the U.S. Section's estimate of just compensation has been deposited in court in a condemnation proceeding.

To the greatest extent practicable, no person will be required to move from property acquired by the U.S. Section without at least 90 days' written notice thereof.

15. *Rent after acquisition.* If the U.S. Section rents real property acquired by it to the former owner or former tenant, the amount of rent shall not exceed the fair rental value on a short-term basis.

16. *Tenants' rights in improvements.* Tenants of real property being acquired by the U.S. Section will be paid just compensation for any improvements owned by them, whether or not they might have a right to remove such improvements under the terms of their tenancy. Such payment will be made only upon the condition that all right, title, and interest of the tenant in such improvements shall be transferred to the U.S. Section and upon the further condition that the owner of the real property being acquired shall execute a disclaimer of any interest in said improvements.

17. *Expense of transfer of title.* In connection with the acquisition of real property by the U.S. Section, the U.S. Section will, to the extent it deems fair and reasonable, bear all expenses incidental to the transfer of title to the United States, including penalty costs for the prepayment of any valid preexisting recorded mortage.

18. *Proration of taxes.* Real property taxes shall be prorated to relieve the seller from paying taxes which are allocable to a period subsequent to vesting of title in the United States or the date of possession, whichever is earlier.

19. *Administrative review.* Determinations by the Chief, Real Estate Division, as to payments under these regulations shall be final. However, in the event of dissatisfaction by any displaced person the following rights of review will be followed:

Any dispute concerning a question of fact arising under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is not disposed of by agreement, shall be decided by the Chief, Real Estate Division, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the displaced person. This decision shall be final and conclusive unless within 30 days from the date of receipt of such copy the displaced person mails or otherwise furnishes a written appeal addressed to the Commissioner, United States Section, International Boundary and Water Commission, United States and Mexico, Post Office Box 1859, El Paso, TX 79950. The decision of the Commissioner or his duly authorized representative for the determination of such appeals shall be in writing and furnished to the displaced person and shall be final and conclusive. In connection with any appeal proceeding hereunder, the displaced person shall be afforded an opportunity to be heard and to offer evidence in support of his appeal.

20. *Annual report.* The head of the State agency acquiring real property or interests therein to be furnished to the U.S. Section for the purpose of one of its projects shall, on or before August 15 of each year, furnish to the U.S. Section the information required and complete the forms prescribed by the Chief of the Real Estate Division for the completion of the Annual Report required by section 214 of the Act.

21. *Definitions*—(a) *The Act.* "The Act" means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91–646), approved January 2, 1971.

(b) *Dwelling.* "Dwelling" means the place of permanent or customary and usual abode of a person. It includes a single family building; a one-family unit in a multifamily building; a unit of a condominium, or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under State law, or cannot be moved without substantial damage or unreasonable cost.

(c) *Family.* A "family" means two or more individuals who are related by blood, adoption, marriage, or legal guardianship who live together as a family unit. However, upon appropriate determination by the Chief of the Real Estate Division, others who live together as a family unit may be treated as if they were a family for the purpose of determining benefits under title II of the Act.

(d) *Financial means.* For the purpose of determining financial means of families and individuals, a financial means test (ability to pay) must be made to satisfy the requirements set forth in paragraph 2 of these regulations. In order to meet a financial means test, a determination should be made as to the displaced person's ability to afford the replacement dwelling. In making this determination, the average monthly rental or housing cost (e.g., monthly mortgage payments, insurance for the dwelling unit, property taxes, and other reasonable recurring related expenses) which the displaced person will be required to pay, in general, should not exceed 25 percent of the monthly gross income or the present ratio of housing payment to the income of the displaced family or individual, including supplemental payments made by public agencies.

(e) *Owner.* "Owner" means a person who holds fee title, a life estate, a 99-year lease, or an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estates or interest, or who is possessed of such other proprietary interest in the property acquired as, in the judgment of the Chief of the Real Estate Division, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interests by devise, bequest, inheritance or operation of law, the tenure of ownership, not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

Dated: November 17, 1972.

UNITED STATES SECTION
INTERNATIONAL BOUNDARY
AND WATER COMMISSION,
UNITED STATES AND
MEXICO.
J. E. FRIEDKIN,
Commissioner.

[FR Doc.72–20489 Filed 11–28–72;8:51 am]

OFFICE OF EMERGENCY PREPAREDNESS

EHV POWER CIRCUIT BREAKERS AND EHV POWER TRANSFORMERS AND REACTORS

Investigation of Imports—Extension of Time

On August 17, 1972, notice was published in the FEDERAL REGISTER (37 F.R. 16635) that, in accordance with the provisions of section 232 of the Trade Expansion Act of 1962 and OEP Regulation No. 4, the Director of the Office of Emergency Preparedness has ordered an investigation to determine whether or not extra high voltage (EHV) power circuit breakers and EHV power transformers and reactors are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

The time to submit any comment, opinion, or data relative to the investigation was extended to October 23, 1972. Rebuttal to material so submitted is extended to December 7, 1972. Any additional data or comments must be filed by December 22, 1972.

Dated: November 22, 1972.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

[FR Doc.72–20449 Filed 11–28–72;8:48 am]

IOWA

Amendment to Notice of Major Disaster

Notice of major disaster for the State of Iowa, dated October 2, 1972, and published October 6, 1972 (37 F.R. 21207), is hereby amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 26, 1972:

The county of:
Delaware.

Dated: November 22, 1972.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

[FR Doc.72–20487 Filed 11–28–72;8:51 am]

OHIO

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given that on November 24, 1972, the President declared a major disaster as follows:

I have determined that the damages in certain areas of the State of Ohio from severe storms and flooding, beginning about November 14, 1972, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Ohio. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. Robert E. Connor, Regional Director, OEP Region 5, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Ohio to have been adversely affected by this declared major disaster:

The counties of:

Erie.
Lake.
Lorain.
Lucas.
Ottawa.

Dated: November 24, 1972.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

[FR Doc.72-20508 Filed 11-28-72;8:53 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

ALLSTATE INVESTMENT CORP.

Order Suspending Trading

NOVEMBER 22, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Allstate Investment Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11:40 a.m. on November 22, 1972, through December 1, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-20435 Filed 11-28-72;8:47 am]

[File No. 7-4317 etc.]

ASHLAND OIL, INC., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 22, 1972.

In the matter of applications of the Detroit Stock Exchange, for unlisted trading privileges in certain securities, Securities Exchange Act of 1934.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Ashland Oil, Inc.	7-4317
Braniff Airways, Inc.	7-4318
Consolidated Foods Corp.	7-4319
First Charter Financial Corp.	7-4320
Great Western Financial Corp.	7-4321
The Louisiana Land and Exploration Co.	7-4323
United States Fidelity & Guaranty Co.	7-4326

Upon receipt of a request, on or before December 8, 1972 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, DC 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-20430 Filed 11-28-72;8:46 am]

[812-3155]

CONNECTICUT GENERAL LIFE INSURANCE CO. ET AL.

Notice of Application for Order Granting Exemption

NOVEMBER 21, 1972.

Notice is hereby given that Connecticut General Life Insurance Co., ("CG Life"), CG Fund, Inc., CG Income Fund, Inc. and CG Equity Sales Co. ("Equity Sales"), Hartford, Conn. 06115 (hereinafter collectively called "Applicants") have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), for an order of the Commission exempting Applicants from Section 22(d) of the Act to the extent specified herein. The application was initially noticed on May 19, 1972 (Investment Company Act Release No. 7184). The notice was subsequently withdrawn on June 9, 1972 (Investment Company Act Release No. 7224). The application is hereby re-noticed in accordance with Applicant's request. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

CG Fund, Inc., and CG Income Fund, Inc. are diversified, open-end management investment companies. The principal objective of CG Fund, Inc. is long-term growth of capital, and the principal objective of CG Income Fund, Inc. is to provide as generous a level of current income as possible consistent with reasonable concern for safety of principal. Equity Sales, a registered broker-dealer under the Securities Exchange Act of 1934, is the principal underwriter of the shares of CG Fund, Inc. and CG Income Fund, Inc. All of the issued and outstanding shares of Equity Sales are owned by CG Investment Management Co., the investment adviser to CG Fund, Inc. and CG Income Fund, Inc. CG Investment Management Company is a wholly-owned subsidiary of Connecticut General Insurance Corp., the parent corporation of CG Life.

Shares of both CG Fund, Inc. and CG Income Fund, Inc. are offered to the public at net asset value plus a sales charge grading downward from 7.5 percent of the public offering price, in accordance with the following table:

Total investment	*Sales charge as percent of offering price*
Less than $10,000	7.5
$10,000 but less than $25,000	6.0
$25,000 but less than $50,000	5.0
$50,000 but less than $100,000	3.0
$100,000 but less than $250,000	2.0
$250,000 but less than $500,000	1.5
$500,000 but less than $1,000,000	1.0
$1,000,000 or more	1.0

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter shall sell any redeemable security to the public except at a current public offering price described in the prospectus. The

section has been construed as prohibiting variations in the sales load except on a uniform basis. Exemption is requested from section 22(d) to permit the application of amounts payable under insurance contracts issued by CG Life ("insurance proceeds") to the purchase at a reduced sales charge of shares of CG Fund, Inc. and CG Income Fund, Inc. These insurance proceeds include the death benefit under life policies, the maturity value of endowment contracts, the cash value of fixed-dollar life insurance and annuity contracts, and lump sum cash options available to beneficiaries. The insurance proceeds would be applied to purchase shares of CG Fund, Inc. and CG Income Fund, Inc. at a reduced sales load, grading downward from 5.25 percent of the public offering price, depending on the amount of the purchase, in accordance with the following table:

Total investment	*Sales charge as percent of offering price*
Less than $10,000	5.25
$10,000 but less than $25,000	4.20
$25,000 but less than $50,000	3.50
$50,000 but less than $100,000	2.80
$100,000 but less than $250,000	2.10
$250,000 but less than $500,000	1.40
$500,000 but less than $1,000,000	1.05
$1,000,000 or more	.70

This application states that the variation in the rate of deduction does not arbitrarily discriminate among different categories of investors. With respect to shares of CG Fund, Inc. and CG Income Fund, Inc. purchased with insurance proceeds, Applicants state that the premiums on life insurance contracts issued by CG Life, which will be the source of the insurance proceeds, will already have been subject to certain sales charges. The reduction of the sales charge on application of such proceeds to purchase shares of CG Fund, Inc. and CG Income Fund, Inc. will avoid an unnecessary accumulation of charges which would act to the detriment of persons entitled to such proceeds. Therefore the imposition of a full sales charge on such purchases of shares of CG Fund, Inc. and CG Income Fund, Inc. would be unwarranted and not in the public interest or consistent with the protection of investors.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 18, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after such date as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-20426 Filed 11-28-72;8:46 am]

[70-5177]

CONSOLIDATED NATURAL GAS CO. ET AL.

Amendment Regarding Acquisition by Holding Company of Additional Common Stock of Non-Utility Subsidiary Company

NOVEMBER 21, 1972.

Notice is hereby given that Consolidated Natural Gas Co. (Consolidated), 30 Rockefeller Plaza, New York, NY 10020, a registered holding company, and CNG Development Co., Ltd. (CNG Ltd) and CNG Producing Co. (CNG Company), Four Gateway Center, Pittsburgh, PA 15222, two wholly-owned non-utility subsidiary companies of Consolidated, have filed with this Commission a post-effective amendment to their application-declaration in this proceeding pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(b), 9, 10, and 12 of the Act and Rules 43, 44, and 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By order dated May 1, 1972 (Holding Company Act Release No. 17559) Consolidated was authorized, among other things, to acquire 56,000 shares with a par value of $100 (Canadian) per share of CNG Ltd., a new company organized to facilitate the Consolidated System's participation in the development of natural gas reserves in Canada. As of September 30, 1972, Consolidated had acquired, at par, 26,800 shares of CNG Ltd capital stock.

Authority is now requested for CNG Ltd to increase the maximum of such shares for issuance and sale to Consolidated from 56,000 to 86,000 shares or an aggregate par value amount of $8,600,000 (Canadian), which Consolidated proposes to purchase at par from time to time as funds are needed through May, 1973. It is stated that such additional financing is needed by CNG Ltd (i) because it could be called upon for an additional $1 million, through May, 1973 under the CanDel Agreement described in Holding Company Act Release No. 17559; and, (ii) to enable CNG Ltd to enter into an agreement with Murphy Oil Company Ltd. (Murphy), a non-affiliate, whereby CNG Ltd will purchase from Murphy, for $1,250,000 (Canadian), an undivided 12.5 percent interest in Canadian exploratory permits and licenses to explore over 2.1 million acres offshore of Cape Breton Island, N.S. In addition, CNG Ltd will advance $750,000 (Canadian) to Murphy in 1973, which advance plus interest thereon is to be repaid by Murphy from proceeds of production from the subject acreage.

CNG Ltd. is to obtain the first competitive call to purchase gas accruing to Murphy from the latter's remaining undivided 25 percent interest in the acreage (the balance of 62½ percent being held by other non-affiliated interests) and Murphy is to obtain the first right to purchase oil accruing to CNG Ltd. from its 12.5 percent interest.

It is stated that no State Commission and no Federal Commission, other than this Commission, has jurisdiction over the proposed transaction; and that the fees and expenses to be incurred in connection with the transaction proposed in the post-effective amendment are estimated at $600, including $500 payable to Consolidated Natural Gas Service Co., Inc., a service company subsidiary of Consolidated, for its services at cost.

Notice is further given that any interested person may, not later than December 15, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air-mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended may be granted and permitted to become effective in the manner provided by Rule

23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20427 Filed 11-28-72;8:46 am]

[812-3297]

DU PONT GLORE FORGAN INC.

Notice of Filing of Application for an Order of Exemption

NOVEMBER 22, 1972.

Notice is hereby given that Du Pont Glore Forgan Inc. (Applicant), 833 Wilshire Boulevard, Los Angeles, CA 90017, in connection with a proposed public offering of up to 1,650,000 shares of common stock (Common Shares) and 1,100,000 shares of cumulative preference stock (Preference Shares) (collectively the "shares") of CNA-Larwin Investment Co. (Company), a registered, closed-end, diversified management investment company, has filed an Application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting certain transactions from section 30(f) of the Act to the extent that such section adopts section 16 of the Securities Exchange Act of 1934 (Exchange Act). All interested persons are referred to the Application on file with the Commission for a statement of the representations therein, which are summarized below.

Applicant is the prospective representative (Representative) of a group of underwriters (Underwriters) to be formed in connection with the aforementioned public offering. Applicant contemplates that each underwriter, including the Representative, will execute an Agreement Among Underwriters and that the Representative, acting both for itself and as Representative of the several Underwriters, will execute an Underwriting Agreement with the Company and CNA-Larwin Advisors, Inc., the Company's investment adviser (Adviser) and the Larwin Group, Inc., the Adviser's parent.

Applicant also states that it is possible that the Underwriter Commitment of any one or more of the Underwriters, including the Representative, will exceed 10 percent of the aggregate number of shares of the Company's Common Shares and/or Preference Shares. Since Section 30(f) of the Act subjects every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of outstanding securities of the Comany to the same duties and liabilities as those imposed by section 16 of the Exchange Act, such Underwriter or Underwriters would become subject to the filing requirements of section 16(a) of the Exchange Act and, upon resale of the shares purchased by them to their customers, subject to the obligations imposed by section 16(b) of the Exchange Act.

Rule 16b-2 under the Exchange Act exempts certain Underwriters from the operation of section 16(b). Applicant states that the purpose of the purchase of the shares by the Underwriters will be for resale in connection with the initial distribution of the shares. Applicant also states that such purchases, therefore, will be transactions effected in connection with a distribution of a substanial block of securities within the purpose and spirit of Rule 16b-2.

Applicant further states that although it is anticipated that the requirements of Rule 16b-2(a) (1) and (2) will be met, one or more of the Underwriters, through their participation in the distribution of the Shares of the Company, may not be entitled to rely upon Rule 16b-2 to exempt them from section 16(b) of the Exchange Act. The requirements in Rule 16b-2(a)(3) that the aggregate participation of Underwriters not within section 16(b) of the Exchange Act be at least equal to the participation of Underwriters exempted therefrom under Rule 16b-2 may not be met because it is possible that one or more of the Underwriters may purchase more than 10 percent of the aggregate number of the shares of the Company's Common Shares and/or Preference Shares to be outstanding after the closing, as a result of obligations to purchase additional shares due to defaults by other Underwriters. Moreover, one or more of the Underwriters who are obligated through the Underwriting Agreement to purchase more than 10 percent of the aggregate number of shares of the Company's Common Shares and/or Preference Shares to be outstanding after the closing, may, as Underwriters and as selected dealers, distribute more than 50 percent of the aggregate number of shares being offered. Such a distribution would not meet the requirement of Rule 16b-2(a)(3).

In addition to purchases of shares from the Company and sales of shares to customers, there may be the usual transactions of purchase or sale incident to a distribution such as stabilizing purchases, purchases to cover over-allotments or other short positions created in connection with such distribution, and sales of shares purchased in stabilization.

Applicant states that there is no inside information in existence since the Company, prior to the initial distribution of the shares, will have no assets other than cash and certain contract rights discribed in the preliminary prospectus, or business of any sort, and all material facts with respect to the Company will be set forth in the prospectus pursuant to which the shares will be offered and sold. No partner, director or officer of Applicant is a director or officer of either the Company or the Adviser, and Applicant states that it is not anticipated that any partner, director or officer of any other Underwriter will be a director or officer of the Company or the Adviser.

Applicant maintains that the requested exemption from the provisions of section 30(f) of the Act is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. It further asserts that the transactions sought to be exempted cannot lend themselves to the practices to which section 16(b) of the Exchange Act and section 30(f) of the Act were enacted to apply.

Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 11, 1972, at 12:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air-mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the Application herein may be issued by the Commission upon the basis of the information stated in said Application, unless an order for hearing upon said Application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20432 Filed 11-28-72;8:47 am]

[811-725]

FIRST NATIONAL FUND, INC.

Notice of Proposal To Terminate Registration

NOVEMBER 22, 1972.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that First National Fund, Inc. (Fund), 155 Sansome Street, San Francisco, CA 94104, a diversified, open-end management investment company registered under the Act, has ceased to be an investment company.

Fund registered under the Act by filing a Notification of Registration on form N-8A with the Commission on May 24, 1956.

At a special meeting of shareholders held on October 26, 1972, shareholders approved an Agreement and Plan of Reorganization (Agreement) contemplating the transfer of substantially all of the assets of Fund to Standard & Poor's/InterCapital Dynamics Fund, Inc. (S & P) in exchange for shares of S & P at adjusted net asset value, and the distribution of shares of S & P to the holders of shares of Fund in liquidation and dissolution of Fund. Fund has informed the Commission that the Agreement was consummated in accordance with its terms on October 30, 1972; that Fund has disposed of all of its assets, except $18,968 in cash retained for the purpose of paying its liabilities and expenses of liquidation; and that Fund is no longer engaged in business as an investment company and does not intend to conduct business as an investment company at any time in the future.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 20, 1972 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Fund at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the matter herein may be issued by the Commission upon the basis of the information stated herein, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-20428 Filed 11-28-72;8:46 am]

[File No. 7-4322]

INTERNATIONAL TELEPHONE & TELEGRAPH CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 22, 1972.

In the matter of application of Detroit Stock Exchange, for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the preferred stock of the following company, which, security is listed and registered on one or more other national securities exchange:

	File No.
International Telephone & Telegraph Corp	7-4322

Upon receipt of a request, on or before December 8, 1972 from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-20429 Filed 11-28-72;8:46 am]

[File Nos. 7-4324, 7-4325]

MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD. AND SONY CORP.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 22, 1972.

In the matter of applications of the Detroit Stock Exchange, for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the American Depositary Shares, 50 Yen Par Common of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Matsushita Electric Industrial Co., Ltd	7-4324
Sony Corp	7-4325

Upon receipt of a request, on or before December 8, 1972, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-20431 Filed 11-28-72;8:46 am]

[File No. 500-1]

MONARCH GENERAL, INC.

Order Suspending Trading

NOVEMBER 21, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Monarch General, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 22, 1972 through December 1, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20440 Filed 11-28-72;8:47 am]

[File No. 500-1]

POWER CONVERSION, INC.

Order Suspending Trading

NOVEMBER 22, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Power Conversion, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 25, 1972, through December 4, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20437 Filed 11-28-72;8:47 am]

[812-3294]

SALOMON BROTHERS

Notice of Filing of Application for Exemption

NOVEMBER 22, 1972.

Notice is hereby given that Salomon Brothers (Applicant), One New York Plaza, New York, NY 10004, a registered broker-dealer and one of the prospective representatives of a group of underwriters to be formed in connection with a proposed public offering of shares of the Capital Stock ($0.01 par value) of Fort Dearborn Income Securities, Inc. (the Company), a new, registered closed-end, diversified management investment company, has filed an application, pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting Applicant and its co-underwriters from section 30(f) of the Act in respect of their transactions incident to the distribution of Company shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Shares of Company (the Registered Shares) are to be purchased by underwriters pursuant to an underwriting agreement to be entered into between Company and the underwriters represented by Applicant. It is intended that the several underwriters will make a public offering of the Registered Shares of Company which such underwriters are to purchase under the underwriting agreement as soon as practicable after the effective date of Company's Registration Statement on form S-4.

The representatives also intend to purchase 6,000 shares of the Company (the Investment Shares) for an approximate price of $104,000 to provide the Company with the initial net worth required by section 14 of the Act.

In addition to purchases from the Company and sales to customers, there may be the usual transactions of purchases or sales incident to a distribution such as stabilizing purchases, purchases to cover over-allotments or other short positions created in connection with such distribution, and sales of shares purchased in stabilization.

It is quite possible that Applicant and one or more other members of the underwriting group may each acquire, in accordance with the provisions of the underwriting agreement, more than 10 percent of the Company's common stock which will be outstanding at the time of the closing of the initial public offering of the shares.

Section 30(f) of the Act subjects every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of outstanding securities of the Company to the same duties and liabilities as those imposed by section 16 of the Securities Exchange Act of 1934 (Exchange Act).

Section 16(a) of the Exchange Act requires insiders to file reports of their holdings and changes in their holdings and section 16(b) makes such insiders liable for short-term trading profits.

Rule 16b-2 under the Exchange Act exempts certain transactions in connection with a distribution of securities from the operation of section 16(b) of the Exchange Act. Applicant states that the purpose of the purchase by Applicant and the other underwriters is for resale in connection with the initial distribution of shares of the Company. The purchases and sales will thus be transactions effected in connection with a distribution of a substantial block of securities within the purpose and spirit of Rule 16b-2.

It is possible, however, that Applicant and certain of the co-underwriters will not be exempted from section 16(b) by the operation of Rule 16b-2, as they may fail to meet the requirement stated in paragraph (a)(3) of Rule 16b-2 that the aggregate participation of persons not within the purview of section 16(b) of the Exchange Act be at least equal to the participation of persons receiving the exemption under Rule 16b-2. It is possible that one or more of the underwriters who, pursuant to the underwriting agreement, will purchase more than 10 percent of the shares of the Company, may be obligated to purchase more than 50 percent of such shares being offered pursuant to the underwriting agreement. Moreover, Rule 16b-2 will not exempt the underwriters subject to section 30(f) from the provisions of section 16(a).

Applicant states that there is no "inside information" in existence since the Company, prior to the purchase of the Investment Shares and distribution of the Registered Shares, will have no assets or business of any sort, and detailed information with respect to the Company will be set forth in the prospectus incorporated in the Registration Statement.

Applicant submits that the requested exemption from the provisions of section 30(f) of the Act is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. It is further submitted that the transactions sought to be exempted cannot lend themselves to the practices section 16 of the Exchange Act and section 30(f) of the act were enacted to prevent.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice if further given that any interested person may, not later than December 7, 1972 at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air-mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the Application herein may be issued by the Commission upon the basis of the information stated in said Application, unless an order for hearing upon said Application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of

further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20433 Filed 11-28-72;8:47 am]

[File No. 500-1]

STIRLING HOMEX CORP.

Order Suspending Trading

NOVEMBER 21, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, the $2.40 cumulative convertible preferred stock, $1 par value, and all other securities of Stirling Homex Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 12 p.m., e.s.t., on November 21, 1972 through November 30, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20438 Filed 11-28-72;8:47 am]

[811-1854]

TAURSA FUND, INC.

Notice of Proposal To Terminate Registration

NOVEMBER 22, 1972.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that Taursa Fund, Inc. (Fund), c/o Warren Allen Smith, 94 Millport Avenue, New Canaan, CT 06840, a diversified, open-end management investment company registered under the Act, has ceased to be an investment company.

Fund registered under the Act by filing a Notification of Registration on form N-8A with the Commission on May 5, 1969. At that time, it had every intention of making a public offering of its securities. However, subsequent developments have precluded the Fund from completing its plans for such an offering, and its president has informed the Commission that the Fund has never made, nor does it propose to make, a public offering; that it has only 14 shareholders; that as of October 27, 1972 it had net assets aggregating $36,221.62; and that its portfolio will be liquidated and a final liquidating dividend will be paid by December 31, 1972.

Section 3(c)(1) of the Act excepts from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than one hundred persons and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 20, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air-mail if the person being served is located more than 500 miles from the point of mailing) upon the Fund at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the matter herein may be issued upon the basis of the information stated herein, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20434 Filed 11-28-72;8:47 am]

[File No. 500-1]

TIDAL MARINE INTERNATIONAL CORP.

Order Suspending Trading

NOVEMBER 22, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.05 par value, and all other securities of Tidal Marine International Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from November 23, 1972 through December 2, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20436 Filed 11-28-72;8:47 am]

[File No. 500-1]

TOPPER CORP.

Order Suspending Trading

NOVEMBER 22, 1972.

The common stock, $1.00 par value of Topper Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Topper Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 25, 1972, through December 4, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-20439 Filed 11-28-72;8:47 am]

SELECTIVE SERVICE SYSTEM

REGISTRANTS PROCESSING MANUAL

The Registrants Processing Manual is an internal manual of the Selective Service System. The following portions of that manual are considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER. Therefore these materials are set forth in full as follows:

TEMPORARY INSTRUCTION 600-3

DISTRIBUTION OF REGISTRANT PROCESSING MANUAL

Due to the many instances of local board consolidation, relocation, and collocation now taking place, RPM chapters and revisions will continue to be distributed as they have been in the past, until further notice. You will be notified when the distribution schedule contained in Table No. 600-1 (October 1, 1972) of Chapter 600 of the RPM is to be implemented.

This temporary instruction will terminate on June 30, 1973.

Issued: November 20, 1972.

TEMPORARY INSTRUCTION No. 660–6

PROCESSING OF REGISTRANTS IN CLASS 1–O IN CONJUNCTION WITH THE OCTOBER, NOVEMBER, AND DECEMBER 1972 INDUCTION CALLS

1. The highest reached number for the year 1972 is established at RSN 095. (Reference § 1631.6 SSR, Chapter 631.6 RPM.)

2. *October 1972.* In conjunction with the October 1972 induction call, all fully available registrants in Class 1–O in the First Priority Selection Group, with RSN 095 or below, will be selected for alternate service in lieu of induction. Selection notices will be issued beginning September 1, 1972, and not later than September 29, 1972. (Reference Part 1660, SSR.)

3. *November 1972.* In conjunction with the November 1972 induction call, all fully available registrants in Class 1–O in the First Priority Selection Group, with RSN 095 or below, will be selected for alternate service in lieu of induction. Selection notices will be issued beginning October 2, 1972, and not later than October 30, 1972. (Reference Part 1660, SSR.)

4. *December 1972.* In conjunction with the December 1972 induction call, all fully available registrants in Class 1–O in the First Priority Selection Group, with RSN 095 or below, will be selected for alternate service in lieu of induction. Selection notices will be issued beginning November 1 and not later than November 30, 1972. (Reference Part 1660, SSR.)

The last day a 1–O registrant can be issued an SSS Form 153, with the exceptions listed below, is November 30, 1972, because the date of reporting for alternate service during December 1972, shall not be later than December 11, 1972. The exceptions are:

1. Postponed registrants whose postponements terminate in December.

2. Volunteers for alternate service.

3. Violators who are willing to commence alternate service in December.

These registrants may be ordered to commence alternate service during the period December 12 through 19 and December 26 through 28, 1972.

In the interests of equity, every available 1–O registrant, RSN 1–95, should be ordered to report for an assignment in accordance with the above schedule. (Reference Part 1660, SSR.)

5. Any registrant ordered for alternate service who attains the 26th anniversary of his date of birth prior to the date scheduled to report for alternate service shall have his order canceled. Accordingly, a notice of selection will not be issued to a registrant where his age exceeds 25 years and 9 months. (Reference § 1631.6(d)(7), SSR.)

This temporary instruction will terminate on December 29, 1972.

Issued: August 30, 1972.

Amended: November 2, 1972.

BYRON V. PEPITONE,
Acting Director.

NOVEMBER 20, 1972.

[FR Doc.72-20480 Filed 11-28-72;8:51 am]

TARIFF COMMISSION

[AA1921-101]

WOOL AND POLYESTER/WOOL WORSTED FABRICS FROM JAPAN

Determination of No Injury or Likelihood Thereof

NOVEMBER 24, 1972.

The Treasury Department advised the Tariff Commission on August 25, 1972, that wool and polyester/wool worsted fabrics from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160 (a)), the Tariff Commission instituted investigation No. AA1921–101 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.

A public hearing was held October 24–27, 1972. Notice of the investigation and hearing was published in the FEDERAL REGISTER of September 1, 1972 (37 F.R. 17876).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission [1] has determined that an industry in the United States is not being or is not likely to be injured, or is not prevented from being established, by reason of the importation of wool and polyester/wool worsted fabrics from Japan sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS [2]

In this antidumping proceeding involving imports of wool and polyester/wool worsted fabrics from Japan we have made a negative determination.

In making such determination, we have considered the U.S. industry to consist of those facilities in the United States engaged in the production of wool and polyester/wool worsted fabrics.[3] In recent years such worsted fabrics have been produced by about a dozen firms, four of which accounted for more than 75 percent of total U.S. production in 1971.

Demand for both domestically manufactured and imported wool and polyester/wool worsted fabrics declined substantially from 1969 through the first 6 months of 1972. This decline was attributable at first to a decline in the production of men's suits and later to a shift in consumer preference to double-knit and textured polyester woven fabrics in suits and other men's and boys' outerwear, which constitute 90 percent of the market for worsted fabrics. These conditions in the U.S. marketplace caused a decline in the production of worsted fabrics, which was accompanied by an enormous increase in the production of double-knit and textured polyester woven fabrics, to a great extent by producers of the worsteds themselves.

Imports of wool and polyester/wool worsted fabrics from Japan—which the Treasury Department found were sold at less than fair value (LTFV) between November 1970 and May 1971—declined at a more rapid rate than did U.S. production. As a proportion of domestic consumption, such imports are at present barely half as large as they were in 1969.

The decline in domestic production of worsted fabrics occurred not only in the production of the higher priced fabrics of plied yarns used primarily in men's suits—like nearly all the LTFV imports—but also in that of fabrics of single and coarser yarns used principally in slacks and sport jackets. Moreover, the loss in sales by the U.S. manufacturers in 1970 and 1971 occurred earliest and with greatest impact among domestic producers of the less expensive worsted fabrics, which were least affected by competition from Japanese imports and were most exposed to replacement by double-knit fabrics.

The Japanese worsted fabrics found to have been sold at LTFV were generally priced well above domestic worsted fabrics, and the differential actually widened between 1969 and July 1972 as the price of the Japanese worsted fabrics increased and the price of the domestic worsted fabrics declined. The decline in the price of the domestic worsteds, moreover, was not confined to those of plied yarns, like the imported fabrics, but occurred in those of single yarns, most of which were sold to different customers and used in different articles of apparel. All of the evidence available to the Commission indicates that the price reduction (or the absence of a price increase)

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[1] Vice Chairman Parker and Commissioner Young did not participate in the decision.

[2] Commissioner Ablondi concurs in the result.

[3] In the opinion of Commissioner Leonard, there is a question whether the industry, as defined above, should not include facilities used by the same firms in the production of double-knit and textured polyester fabrics, which have largely replaced wool and polyester/wool worsteds in men's and boys' outerwear during the last 2 years.

by the U.S. industry in this period was attributable to the competition of double-knit fabrics and not to the imports from Japan sold at less than fair value.

The decline in the demand for worsted fabrics resulted in the closing of worsted plants and in reduced corporate profits and actual losses. Beginning in the latter half of 1971 there was a strong improvement in the operating experience of leading producers, as a result of their growing shift to double-knits, textured polyester, and other fabrics for which there was an active demand. By the fall of 1972, after more than half of the worsted manufacturing capacity had been dismantled or converted to other use, there was renewed demand for worsteds. The remaining capacity of the largest producer was operating 6 days a week, and prices of domestic worsted fabric for delivery in the 1972–73 season ranged 15 to 35 percent above those in the year before.

Four separate industries are alleged by representatives of domestic producers to be injured by importation from Japan of fabric covered by the Treasury determination. These are the industry producing the fabric itself, that producing the yarn of which the fabric is made, that producing the wool top used in the yarn, and that dyeing the top, yarn, or woven fabric.

On the basis of the facts which have been stated, we conclude that the U.S. industry producing the fabrics is not being, or is not likely to be, injured by reason of imports of wool and polyester/wool worsted fabrics from Japan. We also conclude that the industries serving that industry are not being, or are not likely to be, injured by such imports.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-20516 Filed 11-28-72;8:54 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH STATISTICS

Notice of Meeting

The BRAC Committee on Occupational Safety and Health Statistics will meet at 10 a.m., December 4, 1972, at the General Accounting Office Building, 441 G Street NW., Room 4454, Washington, DC. Agenda for the meeting follow:

1. Annual Survey Status.
2. Statistical Grant Agency Progress.
3. Response Analysis Survey.
4. Expenditures on Training and Equipment.
5. Revision of the Recordkeeping System.

Signed at Washington, D.C., this 22d day of November 1972.

GEOFFREY H. MOORE,
Commissioner of Labor Statistics.

[FR Doc.72-20514 Filed 11-28-72;8:53 am]

LABOR RESEARCH ADVISORY COUNCIL

Committee on Industrial Safety

The Labor Research Advisory Council Committee on Industrial Safety will meet at 10 a.m., December 13, 1972 in Room 4535, General Accounting Office Building, 441 G Street NW., Washington, D.C. Agenda for the meeting follows:

1. Annual Survey Status.
2. Statistical Grant Agency Progress.
3. Response Analysis Survey.
4. Expenditures on Training and Equipment.
5. Revision of the Recordkeeping System.

It is suggested that persons planning to attend this meeting as observers contact Joseph P. Goldberg, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 961-2247.

Signed at Washington, D.C., this 17th day of November 1972.

GEOFFREY H. MOORE,
Commissioner of Labor Statistics.

[FR Doc.72-20425 Filed 11-28-72;8:46 am]

Occupational Safety and Health Administration

ADVISORY COMMITTEE ON AGRICULTURE—ROLLOVER PROTECTIVE STRUCTURES

Notice of Meeting; Request for Information

Notice is hereby given that the Rollover Protective Structure Subcommittee of the Standards Advisory Committee on Agriculture, established under section 7 (b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on Tuesday, December 19, and Wednesday, December 20, 1972, at the Institute of Agricultural Medicine, Oakdale Campus, University of Iowa, Oakdale, Iowa 52241.

The Subcommittee will consider what advice is to be given to the Assistant Secretary for Occupational Safety and Health on a new standard concerning rollover protective structures on vehicles used in agricultural operations. The Subcommittee invites interested persons to submit information on the following aspects of rollover protective structures and related issues which will serve as the agenda for the meeting:

1. The nature and extent of farm tractor overturns;

2. The effectiveness of protective frames and protective cabs in eliminating or reducing injury from overturns;

3. Any problems involved in the use of tractors equipped with protective frames or cabs, and means of solving such problems while, at the same time, protecting the operators of the tractors;

4. Whether any requirements for rollover protective structures are feasible for tractors presently in use.

Such information should be submitted in writing prior to December 8, 1972, and should be addressed to Mr. Charles E. Wilson, Attention: ROPS Subcommittee, Room 308, Railway Labor Building, 400 First Street NW., Washington, DC 20210. Documents submitted to the Subcommittee in response to this notice shall comprise part of the record of the Subcommittee proceedings under 29 CFR 1912.33.

This meeting shall be open to the public.

Signed at Washington, D.C., this 22d day of November 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-20479 Filed 11-28-72;8:55 am]

INTERSTATE COMMERCE COMMISSION

[Notice 125]

ASSIGNMENT OF HEARINGS

NOVEMBER 24, 1972.

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. No amendments will be entertained after the date of this publication.

MC 115311 Sub 134, J&M Transportation Co., Inc., now being assigned hearing February 5, 1973 (2 weeks), at Atlanta, Ga., in a hearing room to be later designated.

MC-F-11589, Jim Tiona, Jr.—purchase (portion)—Monkem Co., Inc., now being assigned hearing January 29, 1973 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

MC-F-11502, Holmes Freight Lines, Inc.—control—Byers Transportation Co., Inc., and Commercial Freight Lines, Inc., now being assigned hearing January 31, 1973 (3 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 42011 Sub 10, D. Q. Wise & Co., Inc., now being assigned hearing February 5, 1973 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 35628 Sub 334, Interstate Motor Freight System, now being assigned hearing February 7, 1973 (3 days), at Kansas City, Mo., in a hearing room to be later designated.

MC-117565 Sub 30, Motor Service Co., Inc., now assigned December 6, 1972, at Louisville, Ky., is canceled and application dismissed.

MC 119777 Sub 208, Ligon Specialized Hauler, Inc., now being assigned hearing January 15, 1973 (2 weeks), at Tampa, Fla., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20502 Filed 11-28-72;8:52 am]

[Notice 32]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 24, 1972.

The following letter-notices of proposals (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), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation routes herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 636) (Cancels Deviation No. 623), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed November 14, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From Savannah, Ga., over Interstate Highway 16 to junction Interstate Highway 95, thence over Interstate Highway 95 to junction U.S. Highway 16, approximately 1 mile south of Richmond Hill, Ga., and (2) from junction Interstate Highway 95 and U.S. Highway 17, approximately 1 mile south of Newport, Ga., over Interstate Highway 95 to Junction U.S. Highway 25, thence over U.S. Highway 25 to Brunswick, Ga., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: between Savannah, Ga., and Brunswick, Ga., over U.S. Highway 17.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20506 Filed 11-28-72;8:53 am]

[Notice 34]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 24, 1972.

The following letter-notices of proposals (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), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-525 (Deviation No. 1), BAY TRANSPORTATION CO., INC., Post Office Box 2268, Dothan, AL 36301, filed November 9, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Columbus, Ga., and Dothan, Ala., over U.S. Highway 431, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Dothan, Ala., over Alabama Highway 52 to the Alabama-Georgia State line, thence over Georgia Highway 62 to junction U.S. Highway 27, thence over U.S. Highway 27 to Columbus, Ga., and return over the same route.

No. MC-48958 (Deviation No. 42), ILLINOIS-CALIFORNIA EXPRESS, INC., Post Office Box 9050, Amarillo, TX 79105, filed November 15, 1972. Carrier's representative: Morris G. Cobb, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Fort Worth, Tex., over U.S. Highway 180 to junction U.S. Highway 183, thence over U.S. Highway 183 to junction Interstate Highway 20 (U.S. Highway 80), thence over Interstate Highway 20 (U.S. Highway 80), to Abilene, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Wichita Falls, Tex., over U.S. Highway 281 to Jacksboro, Tex., thence over Texas Highway 199 to Fort Worth, Tex., thence over U.S. Highway 80 to Dallas, Tex., (2) from Jacksboro, Tex., over Texas Highway 199 to Seymour, Tex., thence over U.S. Highway 283 to the Texas-Oklahoma State line, (3) from Olney, Tex., over Texas Highway 199 to Jean, Tex., thence over Texas Farm or Ranch Road 1769 to junction Texas Highway 24, thence over Texas Highway 24 to Graham, Tex., (4) from New Castle, Tex., over Texas Highway 24 to Throckmorton, Tex., (5) from Abilene, Tex., over Texas Highway 351 to junction U.S. Highway 180, thence over U.S. Highway 180 to Albany, Tex., thence over U.S. Highway 283 to Throckmorton, Tex., and (6) from Graham, Tex., over Texas Highway 24 to New Castle, Tex., thence over Texas Highway 251 to Olney, Tex., thence over Texas Highway 79 to Wichita Falls, Tex., and return over the same routes.

No. MC-61788 (Deviation No. 2), GEORGIA FLORIDA ALABAMA TRANSPORTATION COMPANY, Post Office Box 2268, Dothan, AL 36301, filed November 10, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Dothan, Ala., over U.S. Highway 231 to junction Interstate Highway 10, thence over Interstate Highway 10 (using U.S. Highway 90 pending completion of any unfinished portions of Interstate Highway 10) to Pensacola, Fla., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Dothan, Ala., over Alabama Highway 52 to Opp, Ala., thence over U.S. Highway 331 to the Alabama-Florida State line, thence over Florida Highway 85 to Crestview, Fla., thence over U.S. Highway 90 to Pensacola, Fla., and return over the same route.

No. MC-71459 (Deviation No. 2), O. N. C. FREIGHT SYSTEM, 2800 West Bayshore Road, Palo Alto, CA 94303, filed November 9, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 70 and 666, near Safford, Ariz., over U.S. Highway 666 to junction Interstate Highway 10, thence over Interstate Highway 10 to junction U.S. Highway 180, at Deming, N. Mex., and return

over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Phoenix, Ariz., over U.S. Highway 70 to junction New Mexico Highway 90, at or near Lordsburg, N. Mex., thence over New Mexico Highway 90 to Silver City, N. Mex., and (2) from Silver City, N. Mex., over U.S. Highway 180 to Deming, N. Mex., thence over U.S. Highway 80 (Interstate Highway 10) to junction U.S. Highway 180 (Interstate Highway 10), thence over U.S. Highway 180 to El Paso, Tex., and return over the same routes.

No. MC-71459 (Deviation No. 3), O. N. C. FREIGHT SYSTEM, 2800 West Bayshore Road, Palo Alto, CA 94303, filed November 15, 1972. Carrier proposes to operate as *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Portland, Oreg., over U.S. Highway 26 to junction U.S. Highway 97, thence over U.S. Highway 97 to junction Oregon Highway 58, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Portland, Oreg., over U.S. Highway 99-E to junction U.S. Highway 99, (Interstate Highway 5), thence over U.S. Highway 99 to junction Oregon Highway 164 at a point north of Jefferson, Oreg., thence over Oregon Highway 164 to junction U.S. Highway 99 at a point south of Jefferson, Oreg., thence over U.S. Highway 99 to Medford, Oreg., and (2) from Klamath Falls, Oreg., over U.S. Highway 97 to junction Oregon Highway 232 (south of Fort Klamath), thence over Oregon Highway 232 to junction U.S. Highway 97 (north of Lenz, Oreg.), thence over U.S. Highway 97 to junction Oregon Highway 58, thence over Oregon Highway 58 to Goshen, Oreg., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20507 Filed 11-28-72;8:53 am]

[Notice 96]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 24, 1972.

The following publications[1] are governed by the new § 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

[1] Except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality or the human environment resulting from approval of its application.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 135652 (Sub-No. 1) (Republication) filed June 1, 1971, published in the FEDERAL REGISTER issue of July 15, 1971, and republished this issue. Applicant: SERVICE TRANSFER, INC., 4557 Princess Anne Road, Virginia Beach, VA 23462. Applicant's representative: L. C. Major, Jr., Suite 301, Tavern Square, 421 King Street, Alexandria, VA 22314. An Order of the Commission, Division 1, Acting as an Appellate Division, dated November 2, 1972, and served November 16, 1972, finds: (a) the proposed operation to be that of a *common carrier* by motor vehicle, and that the said application, therefore, to the extent it seeks *contract carrier* authority should be denied; and (b) that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes (1) Of *general commodities* (except commodities in bulk), in containers or in trailers having a prior or subsequent movement by water, and (2) of *empty containers, trailers,* and *chassis,* between points in a territory consisting of the commercial zones of Norfolk, Portsmouth, Hampton, Virginia Beach, Newport News, and Chesapeake, Va., restricted in (1) and (2) to the transportation of traffic moving through the facilities utilized by United States Lines; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. NOTE: The authority granted herein for the transportation of dangerous explosives, shall be limited, in point of time, to a period expiring 5 years from the effective date of the certificate. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

NOTICES FOR FILING OF PETITIONS

No. MC 3256 (Sub-No. 2) (Notice of Filing of Petition To Add a Shipper), filed November 14, 1972. Petitioner: BURKHAM BROTHERS, INC., 385 Route No. 22, Hillside, NJ 07205. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner presently holds a permit in No. MC 3256 (Sub-No. 2) authorizing operation as a contract carrier, by motor vehicle, over irregular routes, transporting: *Paper, paper products, and products* used in the manufacture of paper (except liquid commodities, in bulk, and commodities which, because of size or weight, require the use of special equipment), between Hillside, N.J., on the one hand, and, on the other, points in that part of the New York, N.Y., commercial zone as defined in *Commercial Zones and Terminal Areas*, 54 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Act (the "exempt" zone), points in Nassau, Suffolk, Orange, Rockland, and Westchester Counties, N.Y., points in New Jersey, Philadelphia, Pa., and points in Fairfield County, Conn. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Federal Paper Board Co., Inc., of New York, N.Y. By the instant petition, petitioner seeks to add Rothesay Shipping, Ltd., at New Brunswick, Canada, as an additional shipper to the permit described above. Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC-87720 (Sub-No. 83) (Notice of Filing of Petition for Modification of Commodity Description), filed August 28, 1972. Petitioner: BASS TRANSPORTATION COMPANY, INC., Post Office Box 391, Flemington, NJ 08822. Petitioner's representative: Bert Collins, 140 Cedar Street, New York NY 10006. Petitioner holds a permit in No. MC-87720 (Sub-No. 83), which reads as follows: Irregular routes: *Plastic pellets or granules and powder, and plastic scrap,* (a) between points in Bergen, Essex, Middlesex, and Union Counties, N.J., on the one hand, and, on the other, points in that part of Pennsylvania, on and east of a line beginning at the Pennsylvania-Maryland State line and extending along unnumbered highway (formerly portion U.S. Highway 111) through Shrewsbury and Jacobus, Pa., to junction Interstate Highway 83, thence along Interstate Highway 83 through York, Pa., to junction unnumbered highway (formerly portion U.S. Highway 111), thence along unnumbered highway to junction Pennsylvania Highway 295, thence along Pennsylvania Highway 295 through Zions View and Strinestown, Pa., to junction Interstate Highway 83, thence along Interstate Highway 83 through Lemoyne, Pa., to junction unnumbered highway (formerly portion U.S. Highway 111), thence along unnumbered highway to junction U.S. Highway 15, near Harrisburg, Pa., and thence along U.S. Highway 15, near Harrisburg, Pa., and thence along U.S. Highway 15 to the Pennsylvania-New York State line; (b)

between points in Bergen, Essex, Hunterdon, Middlesex, and Union Counties, N.J., on the one hand, and, on the other, points in Connecticut, Massachusetts, New York, and Rhode Island, under a continuing contract or contracts with Tenneco, Inc., of Piscataway, N.J. By the instant petition, petitioner requests that its permit be modified to authorize the transportation of *chemicals* in lieu of *plastic pellets or graules and powder, and plastic scrap.* Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 126600 and (Sub-Nos. 1 and 5) (Notice of Filing of Petition To Add a Shipper), filed October 18, 1972. Petitioner: EHRSAM TRANSPORT, INC., 108 North Factory, Enterprise, KS 67441. Petitioner's representative: Mr. Robert Storey, Garland House Building, 820 Quincy Street, Topeka, KS 66612. Petitioner presently holds permits in No. MC 126600 and (Sub-Nos. 1 and 5) issued August 3, 1965, August 21, 1967, and October 8, 1970, respectively, authorizing operation as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) In No. MC 126600, *Materials handling and processing equipment, elevator equipment, power transmission equipment, foundry castings, and materials and supplies* used in the manufacture of such commodities (except commodities the transportation of which because of their size or weight require the use of special equipment, and except commodities in bulk), between Enterprise, Wichita, and Clay Center, Kans., on the one hand, and, on the other, points in the United States, including Alaska, but excluding Hawaii, under a continuing contract, or contracts, with Combustion Engineering, Inc., Ehrsam Wichita Foundry, Inc., and Ehrsam, Inc.; (2) in No. MC 126600 (Sub-No. 1), *Forest products and lumber products* (except in bulk), and *agricultural commodities* (not including manufactured products thereof) as defined in section 203(b)(6) of the Interstate Commerce Act when transported in the same vehicle and at the same time with forest products and lumber products (except in bulk), from points in Washington, Oregon, Idaho, California, and Arizona, to points in Kansas, Missouri, Oklahoma, and Texas, with no transportation for compensation on return, except as otherwise authorized, under a continuing contract, or contracts, with Combustion Engineering, Inc.; and (3) in No. MC 126600 (Sub-No. 5), *Materials handling and processing equipment, elevator equipment, power transmission equipment, foundry castings, and materials and supplies* used in the manufacture of such commodities, except in bulk, between Concordia, Kans., on the one hand, and, on the other, points in the United States, and the District of Columbia, except Alaska, Hawaii, and Cushing, Okla., under a continuing contract, or contracts, with Combustion Engineering, Inc. By the instant petition, petitioner seeks to add North Central Foundry, Inc., as an additional shipper to its above-listed permits, resulting from the sale of the foundry portion of Combustion Engineering's Enterprise, Kans., facility to North Central Foundry, Inc. Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

No. MC-F-11721. Authority sought for purchase by A. RICHNER, INC., doing business as RICHNER, INC., Post Office Box 1488, Durango, CO 81301, of a portion of the operating rights and property of (1) DON WARD, INC., 241 West 56th Avenue, Denver, CO 80216, and of the operating rights and property of (2) RICHNER, INC., also of Durango, Colo. 81301, and for acquisition by BOYD E. RICHNER, 305 Fourth Avenue, Durango, CO 81301, of control of such rights and property through the purchase. Applicants' attorney: Peter J. Crouse, 1700 Western Federal Building, Denver, CO 80202. Operating right sought to be transferred: (1) *Sulphuric acid*, in bulk, in tank vehicles, as a *common carrier* over irregular routes, from Garfield, Utah, to Maybell, Colo., from Garfield and Thompson, Utah, to Slick Rock, Colo., from Rico, Colo., to Monticello, Utah, from points within 25 miles of Grants, N. Mex. (not including Grants), to points in Colorado of the Continental Divide, from Riverton, Wyo., and points within 5 miles thereof, and Rifle, Colo., to Maybell, Colo., and points within 10 miles thereof, from Grand Junction, Colo., to Uravan, Colo.; *vanadium liquor*, in bulk, in tank vehicles, between points in McKinley and Valencia Counties, N. Mex., on the one hand, and, on the other, Salt Lake City, Utah, and points in La Plata, Mesa, and Montrose Counties, Colo., from the facilities of United Nuclear-Homestake Partners near Grants, N. Mex,. to points in Garfield County, Colo.; (2) *soda ash*, as a *common carrier* over regular routes, from the site of the Westvaco plant near Green River, Wyo., to the plantsite of the Vanadium Corp of America at Durango, Colo., from the site of the Westvaco plant near Green River, Wyo., to the plantsite of the Vanadium Corp. of America at Naturita, Colo., serving no intermediate points; *soda ash*, over irregular routes, from the site of the Westvaco plant near Green River, Wyo., to Shiprock, N. Mex., and Moab and Monticello, Utah, and points within 5 miles of each; *soda ash*, in bags, from the site of the Westvaco Chemical Co. plant near Green River, Wyo., to Uravan, Colo.; *soda ash*, in bulk, from the site of the Westvaco Chemical Co. plant near Green River, Wyo., to Grand Junction, Uravan, and Gunnison, Colo., the site of Phillips Petroleum and Chemical Co. plant about 24 miles northwest of Grants, N. Mex., and the site of the Homestake of New Mexico Partners plant near Grants, N. Mex.; *soda ash*, in bulk, in tank-type vehicles, from Thompson and Crescent Junction, Utah, and Grand Junction, Colo., to Uravan,, Colo. and to the plantsite of the Vanadium Corp. of America, at or near Durango, Colo., with restriction; ore concentrates, in containers, from points in McKinley and Valencia Counties, N. Mex., within 30 miles of Grants, N. Mex., to the site of the plant of the Atomic Energy Commission located approximately 4 miles from Grant Junction, Colo.; *uranium and vanadium ores*, in bulk, from points within 175 miles of Monticello, Utah, to Naturita and Durango, Colo.; *mining supplies and equipment*, between points within 175 miles of Monticello, Utah, on the one hand, and, on the other, Durango, and Naturita, Colo. Vendee is a noncarrier and holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

NOTICE

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY (hereinafter "CNW"), SOO LINE RAILROAD COMPANY (hereinafter "Soo Line"), and the CITY OF WISCONSIN RAPIDS (hereinafter "City") hereby give notice that on the 30th day of October 1972, they filed with the Interstate Commerce Commission at Washington, D.C., an application for approval of an agreement between the CNW and the Soo Line for: (1) Joint ownership and operation over track to be constructed by the city of Wisconsin Rapids approximately 0.61 mile (3,240 feet) in length; (2) for approval of joint operations over other tracks within the city of Wisconsin Rapids owned by the Soo Line or by the CNW 1.90 miles (10,075 feet) in length. Total distance of the proposed joint operation over a line of railroad is 2.52 miles (13,315 feet). The only station involved is the city of Wisconsin Rapids in Wood County, Wis. The proposed joint operation and relocation of operation has been filed to facilitate urban renewal projects funded by the Federal Government in connection with Department of Housing and Urban Development Loan and Contract No. Wisconsin A-2 (LG). This application has been assigned Finance Docket No. 27224. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than 30 days from the

date of first publication in the FEDERAL REGISTER.

Correspondence in regard to this matter should be addressed to Stuart F. Gassner, Chicago and North Western Transportation Co., 400 West Madison Street, Chicago, IL 60606; Robert G. Gehrz, Soo Line Railroad Co., 804 Soo Line Building, Minneapolis, Minn. 55440; John D. Varda, City Attorney, City of Wisconsin Rapids, Wisconsin Rapids, Wis. 54494, and Herro, McAndrews & Porter, S.C., 121 South Pinckney Street, Madison, WI 53703.

In the opinion of the applicants, the Commission's action requested in the application will not have any significant impact upon and will not significantly affect the quality of the human environment.

NOTICE

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, 516 West Jackson Boulevard, Chicago, IL 60606, and its attorney, Warren H. Ploeger, 609 White Building, Seattle, Wash. 98101, hereby give notice that on the 13th day of October 1972, an application was filed with the Interstate Commerce Commission at Washington, D.C., for approval and authorization to acquire trackage rights over and joint use of a line of railroad owned and operated by Burlington Northern, Inc., between Dryad Junction and Raymond, in Lewis and Pacific Counties, State of Washington, a distance of 36.7 miles. The applicant states that no change in service to the public is involved. This application has been assigned Finance Docket No. 27209. In the opinion of the applicant, the proposed transaction will have no effect upon the quality of the human environment. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than 30 days from the date of first publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20505 Filed 11-28-72;8:53 am]

[No. W-C-22]

PORT ROYAL MARINE CORP.

Declaratory Order Regarding "LASH" Towage Operations

NOVEMBER 20, 1972.

At the request of Mr. Ralph Rugan, Jr., representative of Biehl & Co., Inc., the time for filing representations in this proceeding has been extended from November 27, 1972, to January 10, 1973, only.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-20504 Filed 11-28-72;8:53 am]

[No. MC-10622]

YOSEMITE PARK AND CURRY CO.

Proposed Discontinuance of Service

It appearing, that applicant doing business as Yosemite Transportation System, holds Certificate No. MC-10622 authorizing the transportation of passengers from and to the points and in the manner set forth below:

It further appearing, that by request filed February 28, 1972, applicant asks that a portion of the said certificate as set forth in the appendix below be revoked for the reason that the proposed operation will be more economical;

It further appearing, that the said request for revocation properly may not be given consideration until such time as the affected members of the public have been given notice thereof and an opportunity to express their positions thereon; and good cause appearing therefor:

It is ordered, That within 30 days of the service date of this order, applicant shall submit to this Commission written proof that notice of the proposed discontinuance of service together with a facsimile of this order (a) has been posted for 7 consecutive days in all buses presently operated over the route sought to be abandoned, and (b) has been published for 6 consecutive days in newspapers of general circulation in Douglas County, Nev., and Mono County, Calif.

It is further ordered, That within 45 days of the service date of this order any person-in-interest may submit to this Commission its written statement, verified under oath as to why it believes that portions of Certificate No. MC-10622 set forth in the appendix below should not be revoked.

It is further ordered, That further consideration of this matter be, and it is hereby, deferred until expiration of the time period for filing of written statements.

It is further ordered, That notice of the request for revocation and of this order be published in the FEDERAL REGISTER.

It is further ordered, That a copy of this order be served upon the Nevada Public Service Commission and California Public Service Commission.

Dated at Washington, D.C., this 21st day of August 1972.

By the Commission, Commissioner Murphy.

[SEAL] ROBERT L. OSWALD, *Secretary.*

APPENDIX

AUTHORITY HELD AND PORTION SOUGHT TO BE REVOKED [2]

[No. MC-10622]

Regular routes: Passengers and their baggage, in the same vehicles with passengers, in seasonal operations extending from July 1 to September 15, both dates inclusive, of each year,

Between Stateline, Nev., and Tioga Pass entrance to Yosemite National Park, Calif., serving all intermediate points:

"From Stateline over U.S. Highway 50 via Spooners Junction, Nev., to junction U.S. Highway 395, at or near Stewart, Nev., thence over U.S. Highway 395 to Lee Vining, Calif.," and thence over California Highway 120 to the Tioga Pass entrance to Yosemite National Park, and return over the same route.

RESTRICTION: The authority granted herein is restricted to the transportation of passengers moving to or returning from Yosemite National Park, Calif.

[FR Doc.72-20503 Filed 11-28-72;8:52 am]

[Notice 156]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 20, 1972.

The following are notices of filing of applications [1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

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 field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 52673 (Sub-No. 30 TA), filed October 31, 1972. Applicant: FRED OLSON MOTOR SERVICE COMPANY, 6022 West State Street, Post Office Box 7265, Milwaukee, WI 53213. Applicant's representative: Allan B. Torhorst, Post Office Box 307, Burlington, WI 53105. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic pellets,* in bulk, in tank vehicles, from Chicago, Ill. (except points within the

[1] 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.

[2] That portion of the authority sought to be revoked has been placed in quotation marks.

Indiana portion of the Chicago commercial zone), to Baraboo, Wis., for 180 days. Supporting shippers: Flambeau Plastics Corp., Baraboo, Wis. 53913 (Charles Frank, Plant Manager); Klein Industries, Inc., 715 Lynn Avenue, Baraboo, WI 53913 (Paul Swain, Vice President); Teel Plastics Co., Inc., 426 Hitchcock Street, Baraboo, WI 53913 (Oscar Fillhouer, Purchasing Agent). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 61825 (Sub-No. 55 TA), filed November 2, 1972. Applicant: REDSTONE TRANSFER CORPORATION (Va. Public Service Corp), V. C. Drive, Box 385, Collinsville, VA 24078. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating materials, mineral wool and mineral wool products*, from Mountaintop, Luzerne County, Pa., and Williamstown Junction, N.J., to points in Kentucky, for 180 days. Supporting shipper: Certain-Teed Saint Gobain Insulation Corp., Valley Forge, Pa. 19481. Send protests to: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, VA 24011.

No MC 119241 (Sub-No. 7 TA), filed October 31, 1972. Applicant: PCP TRANSPORTATION COMPANY (Calif. Corp), 9500 South Norwalk Boulevard, Santa Fe Springs, CA 90670. Applicant's representative: Warren N. Grossman, 606 South Olive Street, 825 City National Bank Building, Los Angeles, CA 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prestressed concrete modules*, 60 feet in length, from Azusa, Calif., to Las Vegas, Nev., under contract with Conrad Constructors, for 180 days. Supporting shipper: Conrad Constructors, 14656 Oxnard Street, Van Nuys, CA 91401. Send protests to: John E. Nance, Officer-in-Charge, Interstate Commerce Commission, Bureau of Operations, Room 7708, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 119934 (Sub-No. 186 TA), filed October 31, 1972. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, IN 46040. Applicant's representative: J. F. Crouch (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup*, from Penick & Ford loading station in Ponchatoula, La., to Magee, Miss., for 180 days. Supporting shipper: Penick & Ford Ltd., Post Office Box 448, Harvey, LA 70058. Send protests to: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, IN 46204.

No. MC 123993 (Sub-No. 23 TA), filed November 2, 1972. Applicant: FOGLEMAN TRUCK LINE, INC., 1724 West Mill Street, Post Office Drawer 1504, Crowley, LA 70526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup, and blends of corn syrup, and liquid sugar*, from Southdown Sugars, Inc., Houma, La., to points in Alabama, Arkansas, Florida, Mississippi, Tennessee, and Texas, for 180 days. Supporting shipper: Southdown Sugars, Inc., Eighth Floor, Odeco Building, Post Office Box 52378, New Orleans, LA 70150. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, T-9038, Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 128114 (Sub-No. 1 TA), filed October 30, 1972. Applicant: PAUL E. SAVAGE, doing business as SAVAGE TRANSPORTATION CO., Building 141, Pasco Airport, Pasco, WA 99302. Applicant's representative: Richter, Wimberley & Ericson, Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed and feed ingredients*, from points in Benton, Kittitas, Walla Walla, and King Counties, Wash., to points in the counties of Morrow, Umatilla, Marion, Wallowa, Union, Baker, and Malheur, Oreg.; and the counties of Nez Perce, Lewis, Idaho, Latah, Benewah, and Kootenai, Idaho, for 180 days. Supporting shipper: Western Feed Supplements, Northwest, Inc., 303 North Fruitland, Kennewick, Wash. 99336. Send protests to: L. D. Boone, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 128383 (Sub-No. 20 TA), filed November 2, 1972. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, PA 19079. Applicant's representative: James W. Paterson, 123 South Broad Street, Philadelphia, PA 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, and commodities the transportation of which, because of size or weight require the use of special equipment), having a prior or subsequent movement by air, between John F. Kennedy International Airport, New York, N.Y., and Newark Airport, Newark, N.J., on the one hand, and, on the other, the facilities of Outlander Group, Ltd., in Coplay, Pa., for 180 days. Supporting shippers: Taub Hummel & Schnall, Inc., One World Trade Center, Suite 2427, New York, N.Y. 10048; Outlander Group, Ltd., 5256 North Second Street, Coplay, PA 18037. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 133788 (Sub-No. 5 TA), filed November 2, 1972. Applicant: E Z MESSENGER SERVICE, INC., 61 Voorhis Lane, Hackensack, NJ 07601. Applicant's representative: Bowes & Millner, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Materials, equipment, and supplies* used in the manufacture of or used by personnel while engaged in the manufacture of cosmetics and toiletries limited to shipments not exceeding 350 pounds per shipment, from Lakewood, N.J.; Bergen, Passaic, Hudson, Morris, Middlesex, Monmouth, Somerset, Union, Warren, and Essex Counties, N.J.; Nassau and Suffolk Counties, N.Y.; New York, N.Y. Oaks, Lafayette Hill, Chadds Ford, and Philadelphia, Pa.; Bridgeport, Wallingford, Naugatuck, and Waterbury, Conn.; to Suffern, N.Y.; (2) *Materials and supplies* used in the manufacture of cosmetics and toiletries limited to shipments in drums not exceeding 450 pounds per shipments, from Hazel, N.J., to Hillburn and Suffern, N.Y.; and (3) *toilet preparations*, not exceed 350 pounds per shipment, from Suffern, N.Y., to Newark, Del., for 180 days. Supporting shipper: Avon Products, Inc., 9 West 57th Street, New York, NY 10019. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, NJ 07102.

No. MC 138158 TA, filed November 1, 1972. Applicant: BELL-MERCURY MESSENGER SERVICE, INC., 131 Pearl Street, Boston, MA 02210. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, MA 02203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Blood, urine, cultures, smears, human tissue, and animal tissue*, from points in Rhode Island to Boston, Mass., (2) *Printed laboratory reports*, from Boston, Mass., to points in Rhode Island, for 180 days. Supporting shipper: Roche Clinical Laboratories, Inc., 1 Fairfield Crescent, West Caldwell, NJ 07006. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, John Fitzgerald Kennedy Federal Building, Room 2211-B, Government Center, Boston, Mass. 02203.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-20392 Filed 11-27-72;8:45 am]

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federal register

WEDNESDAY, NOVEMBER 29, 1972
WASHINGTON, D.C.
Volume 37 ■ Number 230
PART II

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

■

GEOTHERMAL RESOURCES

Leasing on Public, Acquired and Withdrawn Lands; Revision of Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Parts 3000, 3045, 3104, 3200]

GEOTHERMAL RESOURCES

Leasing on Public, Acquired and Withdrawn Lands; Revision of Proposed Rule

The purpose of the revision in the proposed rule making for implementing the Geothermal Steam Act of December 24, 1970 (30 U.S.C. 1001–1025), is to provide the public with the revisions to the leasing regulations planned as a result of the public hearings and comments received on the Draft Environmental Statement and previously published proposed rules (36 F.R. 13722). The Act provides for the leasing of public lands for the purpose of geothermal resource exploration, development and production.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested parties may submit written comments, suggestions, or objections with respect to the proposed regulations to the Geothermal Coordinator, Department of the Interior, Washington, DC 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

A Final Environmental Statement will be issued in accordance with the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) prior to promulgation of any leasing regulations.

1. Section 3000.0–5 of Subpart 3000, Chapter II, Title 43 of the Code of Federal Regulations is revised to read as follows:

§ 3000.0–5 Definitions.

As used in this subchapter:

(a) "Leasable minerals" means oil and gas. (1) Gas means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at ordinary temperature and pressure conditions. (2) Oil or crude oil means any liquid hydrocarbon substance which occurs naturally in the earth, including drip gasoline or other natural condensates recovered from gas, without resort to manufacturing process.

(b) "Geothermal resources" means geothermal steam and associated geothermal resources which include: (1) All products of geothermal processes, embracing indigenous steam, hot water and hot brines; (2) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (3) heat or other associated energy found in geothermal formations; and (4) any byproducts derived from them.

(c) "Byproduct" means (1) any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with geothermal steam and which have a value of less than 75 per centum of the value of the geothermal steam or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves, and (2) commercially demineralized water.

(d) "Other leasable minerals" means (1) Coal, chlorides, sulphates, carbonates, borates, silicates, or nitrates of potassium and sodium; sulphur in the States of Louisiana and New Mexico; phosphate; and native asphalt, solid and semisolid bitumen and bituminous rock (including oil impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried). (2) Solid (hardrock) minerals; minerals in acquired lands which would be subject to location under the U.S. mining laws if located in the public domain lands.

(e) "Secretary" means the Secretary of the Interior or any person duly authorized to exercise the powers vested in that officer.

(f) "Director" means the Director of the Bureau of Land Management or any person duly authorized to exercise the powers vested in that officer.

(g) "State Director" means the Director of a Bureau of Land Management State office.

(h) "Authorized officer" means any person authorized by law or by lawful delegation of authority in the Bureau of Land Management to perform the duties described.

(i) "Proper BLM office" means the Bureau of Land Management office having jurisdiction over the leased lands or lands subject to lease.

(j) "Commercial quantities" means quantities sufficient to pay a profit after all costs of production have been met.

(k) "Public domain lands" means original public domain lands which have never left Federal ownership; also, lands in Federal ownership which were obtained by the Government in exchange for public lands or for timber on such lands; also original public domain lands which have reverted to Federal ownership through operation of the public land laws.

(l) "Acquired lands" means lands which the United States obtains by deed through purchase or gift, or through condemnation proceedings. They are distinguished from public domain lands in that acquired lands may or may not have been originally owned by the Government. If originally owned by the Government such lands have been disposed of (patented) under the public land laws and thereafter reacquired by the United States.

(m) "Other lands" (1) "Withdrawn lands." Lands which have been withdrawn and dedicated to public purposes. (2) "Reserved lands." Lands which have been withdrawn from disposal and dedicated to a specific public purpose. (3) "Segregated lands." Lands included in a withdrawal or in an application or entry which segregates them from operation of the public land laws.

2. Subpart 3045 of Chapter II, Title 43 of the Code of Federal Regulations is amended by substituting the words "oil and gas, or geothermal resources" for "oil and gas" wherever they appear throughout the subpart. As revised Subpart 3045 reads as follows:

Subpart 3045—Geophysical Exploration Operations (Oil and Gas or Geothermal Resources)

Sec.

§ 3045.0–1 Purposes.

The purpose of the regulations in this Subpart 3045 is to establish procedures to be followed in conducting exploration of the public land for oil and gas or geothermal resources. For exploratory operations for other leasable minerals, the lease or permit required by the appropriate regulations must be secured. The regulations in this subpart are not applicable to exploration operations conducted pursuant to oil and gas or geothermal resources lease, and also are not applicable to the exploration of public domain lands for minerals subject to location under the U.S. mining laws.

§ 3045.0–5 Definitions.

For the purpose of the regulations in this subpart:

(a) "Oil and gas or geothermal resources exploration" means any activity relating to the search for evidence of oil and gas or geothermal resources which requires physical presence upon the land and which may result in damage to public lands or resources thereon. It includes, but is not limited to, geophysical operations, construction of roads and trails, and cross-country transit by vehicle over public domain. It does not include the casual use of public lands for oil and gas or geothermal resources exploration. It does not include core drilling for subsurface geologic information or drilling for oil and gas or geothermal resources; these activities will only be authorized by the issuance of an oil and gas or geothermal resources lease. The regulations in this subpart, however, are not intended to prevent drilling operations necessary for placing explosive charges for seismic exploration, nor do they affect the exclusive right to "drill" for oil and gas or geothermal resources by a lessee upon his leased premises.

(b) "Public lands" means lands owned by the United States and administered by the Bureau of Land Management. It does not include retained mineral interest in lands, title to which has passed from the United States.

(c) "Casual use" means activities that involve practices which do not ordinarily lead to any appreciable disturbance

or damage to lands, resources, and improvements. For example, activities which do not involve use of heavy equipment or explosives and which do not involve vehicle movement except over established roads and trails are "casual use."

§ 3045.1 Notice of intent to conduct oil and gas or geothermal resources operations.

§ 3045.1–1 Application.

(a) *Forms and where filed.* Any person desiring to conduct oil and gas or geothermal resources exploration operations under the regulations of this subpart shall, prior to entry upon the lands, file for approval with the authorized officer of the Bureau of Land Management for the district in which the public lands are located a "Notice of Intent to Conduct Oil and Gas or Geothermal Resources Exploration Operations," on a form approved by the Director.

(b) *Requirements.* The "Notice of Intent to Conduct Oil and Gas or Geothermal Resources Exploration Operations" will contain the following:

(1) The name and address, including zip code, both of the person, association, or corporation for whom the operations will be conducted and of the person who will be in charge of the actual exploration activities.

(2) A statement that the signers agree that exploration operations will be conducted pursuant to the terms and conditions listed on the approved form.

(3) A brief description of the type of operations which will be undertaken.

(4) A description of the lands to be explored, by township and range.

(5) Approximate date of commencement of operations.

§ 3045.2 Completion of operations.

Upon completion of the exploratory operations, there shall be filed with the District Manager a "Notice of Completion of Oil and Gas or Geothermal Resources Exploration Operations." Within 90 days after the filing of such "Notice of Completion," the District Manager shall notify the party who had conducted the operations whether all of the terms and conditions set out by the regulations in this subpart and in the "Notice of Intent to Conduct Oil and Gas or Geothermal Resources Exploration Operations" have been complied with, or whether any additional measures must be taken to rectify any damage to the land, specifying the nature and extent thereof.

§ 3045.3 Bond requirements.

§ 3045.3–1 General.

(a) Individual. Simultaneously with the filing of the Notice of Intent to Conduct Oil and Gas or Geothermal Resources Exploration Operations, and before the entry is made on the land, the party or parties filing the "Notice of Intent to Conduct Oil and Gas or Geothermal Resources Exploration Operations" must file with the District Manager a surety company bond in the amount of not less than $5,000, conditioned upon the full and faithful compliance, for each oil and gas or geothermal resources exploration operation, with all of the terms and conditions of the regulations in this subpart and of that notice.

(b) A party will be excused from compliance with the requirements of paragraph (a) of this section if he possesses either a nationwide bond in the amount of not less than $50,000 covering all oil and gas or geothermal resources exploration operations or a statewide bond in the amount of not less than $25,000 covering all oil and gas or geothermal resources exploration operations in the State in which the lands on which he has filed the Notice of Intent are situated.

§ 3045.3–2 Riders to existing bond forms.

(a) Nationwide and statewide bonds. Holders of nationwide and statewide oil and gas or Geothermal Resources lease bonds shall be permitted to amend their bonds to include exploration activities in lieu of furnishing additional bonds.

§ 3045.3–3 Termination of period of liability.

The District Manager will not give his consent to the cancellation of the bond if an individual bond was submitted, or to the termination of the period of liability if a State or nationwide bond was submitted, unless and until all of the terms and conditions of the "Notice of Intent to Conduct Oil and Gas or Geothermal Resources Exploration Operations" have been complied with. Should the District Manager or any other authorized officer of the Bureau of Land Management fail to notify the party within 90 days from the filing of "Notice of Completion" that all terms and conditions have been complied with or that additional corrective measures must be taken to rehabilitate the land, the period of liability under an individual bond or the period of liability for a particular oil and gas or geothermal resources exploration operation under a State or nationwide bond shall automatically terminate on the 91st day.

3. Sections 3104.9, 3104.9–1, and 3104.9–5 of Subpart 3104, Chapter II, Title 43 of the Code of Federal Regulations are deleted and the following is substituted therefor: Section 3104.9 *Exploration Bond* (see 43 CFR 3045.3).

4. A new Group 3200 is added to Chapter II, Title 43 of the Code of Federal Regulations to read as follows:

Group 3200—Geothermal Resources Leasing

PART 3200—GEOTHERMAL RESOURCES LEASING; GENERAL

Subpart 3200—Geothermal Resources Leasing; General

Sec.
3200.0–3 Authority.
3200.0–5 Definitions.
3200.0–6 Preleasing procedures.
3200.0–7 Cross reference.
3200.0–8 Use of surface.

Subpart 3201—Available Lands; Limitations; Unit Agreements

Sec.
3201.1 Lands subject to geothermal leasing.
3201.1–1 General.
3201.1–2 Department of the Interior.
3201.1–3 Department of Agriculture.
3201.1–4 Federal Power Commission.
3201.1–5 Patented lands.
3201.1–6 Excepted areas.
3201.2 Acreage limitations.
3201.3 Leases within unit areas.

Subpart 3202—Qualifications of Lessees

3202.1 Who may hold leases.
3202.2 Statements required to be submitted.
3202.2–1 General.
3202.2–2 Guardian or trustee.
3202.2–3 Attorney-in-fact.
3202.2–4 Evidence previously filed.
3202.2–5 Showing as to sole party in interest.
3202.2–6 Heirs and devisees (estates).

Subpart 3203—Leasing Terms

3203.1 Primary and additional term.
3203.1–1 Dating of leases.
3203.1–2 Primary term.
3203.1–3 Additional term.
3203.1–4 Extensions.
3203.1–5 Conversion to mineral leases or mining claims.
3203.2 Lease acreage limitation.
3203.3 Consolidation of leases.
3203.4 Description of lands.
3203.5 Diligent exploration.

Subpart 3204—Surface Management Requirements; Special Requirements

3204.1 General.
3204.2 Waste prevention.
3204.3 Readjustment of terms and conditions.
3204.4 Reservation to the United States of oil, hydrocarbon gas, and helium.
3204.5 Compensation for drainage; compensatory royalty.
3204.6 Patented lands.

Subpart 3205—Service Charges, Rentals and Royalties

3205.1 Payments.
3205.1–1 Form of remittance.
3205.1–2 Where submitted.
3205.2 Service charges.
3205.3 Rentals and royalties.
3205.3–1 Payment with application.
3205.3–2 Payment of annual rental.
3205.3–3 Escalating rental rates.
3205.3–4 Fractional interest.
3205.3–5 Royalty on production.
3205.3–6 Royalty on commercially demineralized water.
3205.3–7 Waiver, suspension or reduction of rental or royalty.
3205.3–8 Application for and effect of suspension of operations and production.
3205.3–9 Readjustments.
3205.4 Rental and minimum royalty liability of lands committed to cooperative or unit plans.
3205.4–1 Prior to production.
3205.4–2 After production.

Subpart 3206—Lease Bonds

3206.1 Types of bonds and filing.
3206.1–1 Types of bonds.
3206.1–2 Filing of bonds.
3206.2 Termination of period of liability.
3206.3 Operators bond.
3206.4 Qualified corporate sureties.
3206.5 Nationwide bond.
3206.6 Statewide bond.

Subpart 3200—Geothermal Resources Leasing; General

§ 3200.0–3 Authority.

These regulations are issued pursuant to the Geothermal Steam Act of 1970 (84 Stat. 1566; 30 U.S.C. 1001–1025) and rights to develop and utilize geothermal resources in land subject to these regulations may be acquired only in accordance with these regulations.

§ 3200.0–5 Definitions.

As used in Group 3200, the term:

(a) "The Act" means the Geothermal Steam Act of 1970;

(b) "Geothermal lease" means a lease issued under authority of the Act; and unless the context indicates otherwise, "lease" means a "geothermal lease";

(c) "Sole party in interest" means a party who is and will be vested with all legal and equitable rights under the lease. No one is, or shall be deemed to be, a sole party in interest with respect to a lease in which any other party has any interest in the lease;

(d) "Interest in the lease" means any interest whatever in a geothermal lease, including, but not limited to: A record title interest; a working interest; an operating right; a claim to any prospective or future advantage or benefit from a lease; a participation in any increment, issue, or profit which may be derived, or accrue in any manner, from the lease based upon, or pursuant to, any agreement or understanding in existence at the time when the offer is filed; and an agreement pertaining to any of the foregoing;

(e) "Supervisor" means a representative of the Secretary, subject to the direction and supervisory authority of the Director, the Chief, Conservation Division, Geological Survey and the appropriate Regional Conservation Manager, Conservation Division, Geological Survey, authorized and empowered to regulate operations and to perform other duties prescribed in the regulations in this part or any subordinate of such representative acting under his direction.

(f) "Primary term" means the first 10 years in the life of the lease, exclusive of any period of suspension of operations or production, or both.

(g) "Area of operation" means that area of the leased lands which is required for exploration, development and producing operations, and which is delineated on a map or plat which is made a part of the approved plan of operations. It encompasses the area generally needed for wells, flow lines, separators, surge tanks, drill pads, mud pits, workshops, and other such facilities used for on-project geothermal resources field exploration, development and production operations.

(h) "Geothermal resource province" means an area in which higher than normal temperatures are likely to occur with depth and there is a reasonable possibility of finding reservoir rocks that will yield steam or heated fluids to wells. The classification of such a province is based on geologic inference and a determination that the area possesses one or more of the following characteristics:

(1) Volcanism of late Tertiary or Quaternary age—especially caldera structures, cones, and volcanic vents; (2) geysers, fumaroles, mud volcanoes, or thermal springs at least 40° F. higher than average ambient temperature; and (3) subsurface geothermal gradients generally in excess of two times normal, as reflected in deep water wells, oil well tests, and other test holes.

(i) "Potential geothermal resource area" means an area containing an inferred geothermal reservoir within a geothermal resource province which has not been determined to be a known geothermal resource area.

(j) "Known geothermal resource area" or "KGRA" means an area in which the geology, nearby discoveries, competitive interests, or other indicia would, in the opinion of the Secretary, engender a belief in men who are experienced in the subject matter that the prospects for extraction of geothermal steam or associated geothermal resources are good enough to warrant expenditures of money for that purpose. Any relevant data and information pertaining to the criteria, including without limitation any pertinent engineering and economic data, may be considered in classifying land for inclusion in a KGRA. Existence of a few, usually two or three, geothermal leases on Federal lands, or geothermal development on other than Federal lands, in a potential geothermal resource area within a geothermal resource province shall be deemed to be such a situation as to engender a belief in men who are experienced in the subject matter that the prospects for extraction of geothermal resources in that area are good enough to warrant expenditures of money for that purpose, and will cause that potential geothermal resource area to become a KGRA. Absence of such leases or development shall not, however, exclude an area from determination as a KGRA.

§ 3200.0–6 Preleasing procedures.

(a) When an area is initially considered for geothermal leasing or when the need arises, the Director shall request other interested Bureaus and Federal agencies to prepare reports describing, to the extent known, resources contained within the general area and the potential effect of geothermal resources operations upon the resources of the area and its total environment.

(b) The Director, or the head of the agency charged with the administration of the surface, if he so elects, prior to the final selection of tracts for leasing, shall, when appropriate, evaluate fully the potential effect of the leasing program on the total environment, fish and other aquatic resources, wildlife habitat and populations, esthetics, recreation, and other resources in the entire area during exploratory, developmental, and operational phases. This evaluation will consider the potential impact of the possible development and utilization of the geothermal resources including the construction of power generating plants and transmission facilities on lands which may or may not be included in a geothermal lease. To aid him in his evaluation and selection of tracts he may request and consider the views and recommendations of appropriate Federal agencies, may hold public hearings after appropriate notice, and may consult with State agencies, organizations, industries, and individuals, and shall consider all other potential uses of the land and its natural resources. The Director shall develop special terms and conditions to be included in leases when they are needed to protect the environment, to permit use of the land for other purposes, and to protect other natural resources. If tracts are offered for competitive leasing, any terms and conditions to be included in leases for such tracts shall be published in the notice announcing the availability of the land for leasing.

§ 3200.0–7 Cross reference.

(a) The regulations governing operations under geothermal leases are found in 30 CFR Part 270.

(b) The regulations setting forth the basic policies for management of the public lands are found in Part 1725 of this chapter.

§ 3200.0–8 Use of surface.

(a) A lessee shall be entitled to use for the production, utilization, and conservation of geothermal resources only so much of the surface of the leased lands as is deemed necessary for such purposes. The lessee shall have the right to use so much of the leased lands as may be deemed necessary for a power generation plant or a commercial or industrial facility, and may apply for the right to use so much of other Federal lands as may be deemed necessary for such purposes; however, any use of the leased lands or other Federal lands for a power generation plant or a commercial or industrial facility will be authorized only under a separate permit issued by the appropriate agency for that specific use and subject to all terms and conditions which it may include in that permit. The uses of the lands within the area of operation are subject to the supervision of the supervisor, and the uses of the remaining leased lands or other Federal lands are subject to the supervision of the appropriate surface management agency. The lessee shall not be entitled to use any mineral materials subject to the Materials Act except as provided by Part 3600 of this chapter.

(b) Operations under other leases or uses on the same lands shall not unreasonably interfere with or endanger operations under leases issued under these regulations nor shall operations under these regulations unreasonably interfere with or endanger operations under any lease, license, claim, permit, or other authorized use pursuant to the provisions of any other Act.

Subpart 3201—Available Lands; Limitations, Unit Agreements

§ 3201.1 Lands subject to geothermal leasing.

§ 3201.1–1 General.

Subject to the exceptions listed below, geothermal leases may be issued in combination or separately for (a) lands administered by the Secretary of the Interior; (b) national forest lands or other lands administered by the Department of Agriculture through the Forest Service; and (c) geothermal resources in lands which have been conveyed by the United States subject to a reservation to the United States of geothermal resources.

§ 3201.1–2 Department of the Interior.

(a) Except as provided in this section, leases may be issued in accordance with the regulations in this part for withdrawn lands, for acquired lands, and for geothermal resources in lands which have passed from Federal ownership subject to a reservation to the United States of the geothermal resources therein where such lands or resources are administered by the Secretary of the Interior.

(b) Notwithstanding any other provision in these regulations, geothermal leases shall not be issued for: (1) Lands which the Secretary has identified or may identify as being necessary to the performance of his or any other Federal agency's authorized functions, and on which geothermal resource development would in his judgment interfere with such functions; or (2) lands respecting which the Secretary has made or may make a finding that the issuance of geothermal leases would be contrary to the public interest. Upon receipt of an application for a geothermal lease affecting lands withdrawn under section 3 of the Reclamation Act of 1902 (43 U.S.C. 416) or any other appropriate authority, notice thereof and an opportunity to comment thereon shall be given to the head of the agency for whose benefit the withdrawal was made. Should the head of the agency object to the leasing of such withdrawn lands, the lands shall not be leased unless the Assistant Secretary for Public Land Management approves the offering after consultation with the appropriate Assistant Secretary or his representative.

Where leases are issued under Part 3210 or 3220 for lands neighboring such reserved lands, the lessees shall be required to perform such lease operations and take such measures as are prescribed by the Secretary for the protection of the Federal interests therein. Stipulations for this purpose will be incorporated in any applicable leases.

§ 3201.1–3 Department of Agriculture.

Leases for lands withdrawn or acquired in aid of functions of the Department of Agriculture, for example, lands administered by the Forest Service, may be issued by the Secretary of the Interior only with the consent of, and subject to such terms and conditions as may be prescribed by, the head of that Department to insure adequate utilization of the lands for the purpose for which they were withdrawn or acquired.

§ 3201.1–4 Federal Power Commission.

Leases for lands to which section 24 of the Federal Power Act, as amended (16 U.S.C. 818), is applicable, may be issued by the Secretary of the Interior only with the consent of, and subject to, such terms and conditions as the Federal Power Commission may prescribe to insure adequate utilization of such lands for power and related purposes.

§ 3201.1–5 Patented lands.

(a) Geothermal resources in lands which have passed from Federal ownership subject to a reservation to the United States of geothermal resources therein may be leased under the regulations in this group subject to the provisions in this part and to such terms and conditions as may be prescribed by the authorized officer to insure adequate protection of the patented lands and any improvements thereon.

(b) Geothermal resources in lands the surface of which has passed from Federal ownership but in which the minerals have been reserved to the United States shall not be developed or produced except under terms and conditions prescribed by the Secretary and pursuant to any agreements made therefor while the question of the title to such resources is being resolved pursuant to the provisions of section 21(b) of the Act.

§ 3201.1–6 Excepted areas.

Leases shall not be issued for lands which are: (a) Administered under the National Park System; (b) within a national recreation area; (c) in a fish hatchery administered by the Secretary, wildlife refuge, wildlife range, game range, wildlife management area, or waterfowl production area, or for lands acquired or reserved for the protection and conservation of fish and wildlife which are threatened with extinction; or (d) tribally or individually owned Indian trust or restricted lands, within or without the boundaries of Indian reservations.

§ 3201.2 Acreage limitations.

(a) No person, association, corporation, or municipality shall take, hold, own, or control at one time, whether acquired directly from the Secretary or otherwise, any direct or indirect interest in Federal leases in any one State exceeding 20,480 acres. Nor may any person, association, or corporation be permitted to convert mineral leases, permits, applications therefor, or mining claims, pursuant to the provisions of section 4 (a)–(f) of the Act into geothermal leases for more than 10,240 acres.

(b) In computing acreage holdings or control, the accountable acreage of a party owning an undivided interest in a lease shall be that party's proportionate part of the total lease acreage. Likewise, the accountable acreage of a party owning an interest in a corporation or association shall be his proportionate part of the corporation's or association's accountable acreage except that no person shall be charged with his pro rata share of any acreage holdings of any association or corporation unless he is the beneficial owner of more than 20 per centum of the stock or other instruments of ownership or control of that association or corporation. Parties owning a royalty or other interest determined by or payable out of a percentage of production from a lease will be charged with a similar percentage of the total lease acreage.

(c) An association shall not be deemed to exist between the parties to a contract for development of leased lands, whether or not coupled with an interest in the lease, nor between colessees, but each party to any such contract or each colessee will be charged with his proportionate interest in the lease. No holding of acreage in common by the same persons in excess of the maximum acreage specified in the law for any one lessee will be permitted.

§ 3201.3 Leases within unit areas.

Before issuance of a geothermal lease for lands within an approved unit agreement, the lease applicant or successful bidder will be required to file evidence that he has entered into an agreement with the unit operator for the development and operation of the lands in a lease if issued to him under and pursuant to the terms and provisions of the approved unit agreement, or a statement giving satisfactory reasons for the failure to enter into such agreement. If such statement is acceptable, he will be permitted to operate independently but will be required to perform his operations in a manner which the Supervisor deems to be consistent with the unit operations.

Subpart 3202—Qualifications of Lessees

§ 3202.1 Who may hold leases.

Leases may be issued only to: (a) Citizens of the United States; (b) associations of such citizens; (c) corporations organized under the laws of the United States, any State or the District of Columbia; or (d) governmental units, including, without limitation, municipalities. The term "association" includes a partnership.

§ 3202.2 Statements required to be submitted.

§ 3202.2–1 General.

(a) Each applicant for a lease is required to submit with his application a statement that his interests, direct and indirect, in Federal geothermal leases and applications, do not exceed the acreage limitations prescribed in § 3201.2, together with a statement of his citizenship.

(b) If the applicant is an association or corporation the application must be accompanied by: (1) A statement showing that it is authorized to hold geothermal leases; (2) a statement that the officer executing the application is au-

thorized to act on behalf of the association or corporation; (3) a statement setting forth the State in which it was incorporated or formed and the names and addresses of all members or stockholders holding more than 20 percent of the association or corporation; and (4) a statement from each person owning or controlling more than 20 percent of the association or corporation setting forth his citizenship and his holdings.

(c) If the applicant is a municipality, the application must be accompanied by: (1) A statement showing that it is authorized to hold geothermal leases; (2) a statement that the officer executing the application is authorized to act on behalf of the municipality; and (3) a copy of its governing body's resolution authorizing such action.

§ 3202.2–2 Guardian or trustee.

(a) *Guardian.* If the application is made by a guardian, he must submit: (1) A certified copy of the court order authorizing him to act as guardian and, in behalf of his ward, to enter into contractual agreements and to fulfill all obligations arising under the lease; and (2) statements as to the citizenship and holdings under the Act of himself and of each person under his guardianship for whom the offer or nomination is made.

(b) *Trustee.* If the application is made by a trustee, he must submit a copy of the instrument establishing the trust or a certified copy of the court order authorizing him to act as trustee, in behalf of the beneficiary, as to all obligations arising under the lease; and statements as to the citizenship and holdings under the Act of himself and of each beneficiary.

§ 3202.2–3 Attorney-in-fact.

If an application is filed by an attorney-in-fact, it must be accompanied by evidence as to his authority to act.

§ 3202.2–4 Evidence previously filed.

Where the statements required by § 3202.2 have been previously filed a reference by serial number to the record in which they have been filed, together with a statement as to any amendments will be accepted.

§ 3202.2–5 Showing as to sole party in interest.

Each application must be accompanied either by a signed statement by the applicant that he is the sole party in interest, or by a signed statement by the applicant setting forth the names of all other persons who have an interest in the lease and their qualifications to hold a lease.

§ 3202.2–6 Heirs and devisees (estates).

If an applicant or a successful bidder dies before the lease is issued, the lease will be issued to the executor or administrator of the estate if probate of the estate has not been completed, and if probate has been completed, or is not required, to the heirs or devisees, provided there is filed in all cases an application to lease in compliance with the requirements of this section which will be effective as of the effective date of the original application filed by the deceased. If there are any minor heirs or devisees, the application can only be made by their legal guardian or trustee in his name. Each such application must be accompanied by the following information:

(a) Where probate of the estate has not been completed:

(1) Evidence that the person who as executor or administrator submits the application, and bond form if a bond is required, has authority to act in that capacity and to sign the application and bond forms.

(2) A statement over the signature of each heir or devisee or, if the heir or devisee is a minor, over the signature of his legal guardian or trustee, concerning citizenship and holdings.

(3) Evidence that the heirs or devisees are the heirs or devisees of the deceased applicant or successful bidder and are the only heirs or devisees of the deceased.

(b) Where the executor or administrator has been discharged or no probate proceedings are required:

(1) A certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs of the applicant or successful bidder and the provisions of the law of the deceased's last domicile showing that no probate is required.

(2) A statement over the signature of each of the heirs or devisees with reference to holdings and citizenship. If the heir or devisee is a minor, the statement must be over the signature of the guardian or trustee.

Subpart 3203—Leasing Terms

§ 3203.1 Primary and additional term.

§ 3203.1–1 Dating of leases.

All geothermal leases will be dated as of the first day of the month following the date on which the leases are signed on behalf of the lessor except that, where prior written request has been made, a lease may be dated as of the first day of the month within which it is so signed. A renewal lease will be dated from the termination of the original lease.

§ 3203.1–2 Primary term.

All leases shall be for a primary term of 10 years.

§ 3203.1–3 Additional term.

(a) If geothermal steam is produced or utilized in commercial quantities within the primary term of a lease, that lease shall continue for so long thereafter as geothermal steam is produced or utilized in commercial quantities, but the lease shall in no event continue for more than 40 years after the end of the primary term except that the lessee shall have a preferential right to a renewal of his lease for a second 40-year term upon such terms and conditions as the authorized officer deems appropriate, if at the end of the first 40-year term the lands are not needed for another purpose and geothermal steam is produced or utilized in commercial quantities.

(b) For the purposes of paragraph (a) of this section, production or utilization of geothermal steam in commercial quantities shall be deemed to include the completion of one or more wells producing or capable of producing geothermal steam in commercial quantities and a bona fide sale of such geothermal steam for delivery to or utilization by a facility or facilities not yet installed but scheduled for installation not later than 15 years from the date of commencement of the primary term of the lease.

§ 3203.1–4 Extensions.

(a) A lease which has been extended by reason of production, or on which geothermal steam has been produced, and which has been determined by the Secretary to be incapable of further commercial production and utilization of geothermal steam may be further extended so long as one or more valuable byproducts are produced in commercial quantities but for not more than 5 years.

(b) Where the lessee commenced actual drilling operations prior to the end of the primary term and those operations are being diligently prosecuted at that time, a lease may also be extended for a period of five years and so long thereafter as geothermal steam is produced or utilized in commercial quantities (but for not more than 35 years).

(c) A lease committed to a cooperative plan, communitization agreement or a unit plan under or for which actual drilling operations were commenced prior to the end of the primary term of the lease, shall, if such operations are being diligently prosecuted at that time be extended for a period of five years and so long thereafter as geothermal steam is produced or utilized in commercial quantities (but for not more than thirty five years).

(d) Any lease on which there has been a suspension of operations or production, or both, under 30 CFR 270.17 shall continue in effect for the life of the suspension and, at the end of the suspension, shall be extended for a period equal to that portion of the primary term during which the suspension was in effect.

If, at the end of 40 years after the conclusion of the primary term, steam is being produced or utilized in commercial quantities and the lands are not needed for other purposes, the lessee shall have a right to a renewal of the lease for a second 40-year term on such terms and conditions as the Secretary deems appropriate.

§ 3203.1–5 Conversion to mineral leases or mining claims.

(a) If the byproducts being produced in commercial quantities are leasable under the Mineral Leasing Act of February 25, 1920, as amended and supplemented (30 U.S.C. sections 181–287), or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. sections 351–359), and the leasehold is primarily valuable for the production thereof, the lessee shall be entitled to convert his geothermal lease to a mineral lease under, and subject to all the terms and conditions of, the appropriate Act upon application

at any time before expiration of the lease extension by reason of byproduct production.

(b) The lessee shall be entitled to locate under the mining laws all minerals which are not leasable and which would constitute a byproduct if commercial production or utilization of geothermal steam continued. The lessee in order to acquire the rights herein granted him shall complete the location of mineral claims within 90 days after the termination of the geothermal lease.

(c) Any lease converted under paragraph (a) of this section or under paragraph (b) of this section affecting lands withdrawn or acquired in aid of a function of a Federal department or agency, including the Department of the Interior, shall be subject to such additional terms and conditions as may be prescribed by that department or agency with respect to the additional operations or effects resulting from such conversion upon the utilization of the lands for the purpose for which they are administered.

§ 3203.2 Lease acreage limitation.

A geothermal lease may not embrace more than 2,560 acres in a reasonably compact area, except where a departure is occasioned by an irregular subdivision or subdivisions. In such event, the leased acreage may exceed 2,560 acres by an amount which is smaller than the amount by which the area would be less than 2,560 acres if the irregular subdivision were excluded. No lease will be issued for less than 1,280 acres, except at the discretion of the Secretary, or where a departure is occasioned by an irregular subdivision, or as provided for in Subpart 3230 of this chapter. In event of a departure, the leased acreage may be less than 1,280 acres by an amount which is smaller than the amount by which the area would be more than 1,280 acres if the irregular subdivision were added.

§ 3203.3 Consolidation of leases.

Two or more contiguous leases issued to the same lessee may be consolidated if the total combined acreage does not exceed 2,560 acres. Except where a departure is occasioned by an irregular subdivision or subdivisions as stated in § 3203.2.

§ 3203.4 Description of lands.

Applications and nominations shall include a description of the lands sought to be included in a geothermal lease. If the lands have been surveyed under the public land rectangular system, each application or nomination shall describe the lands by legal subdivision, section, township, and range. If the lands have not been so surveyed, each application shall describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to a monument or to a prominent topographic feature. When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, each application or nomination for lands shown on such protracted surveys, filed on or after such effective date, shall describe the lands according to the legal subdivision, section, township, and range shown on the approved protracted surveys.

§ 3203.5 Diligent exploration.

All geothermal leases will include provisions for the diligent exploration of the leased resources. Diligent exploration means exploration operations (subsequent to the issuance of the lease) on, or related to, the leased lands, including, but not limited to, operations such as geochemical surveys, heat flow measurements, core drilling, or drilling of a test well. Exploration operations, in order to qualify as diligent exploration, must be approved by the Supervisor, and evidence of all expenditures therefor and the results thereof must be submitted to the Supervisor in compliance with applicable regulations and Geothermal Resources Operational Orders or upon his request. Moreover, after the fifth year of the primary lease term, exploration operations, in order to qualify as diligent exploration for a year, must entail expenditures during that year equal to at least two times the sum of (a) the minimum annual rental required by statute, and (b) the amount of rental for that year in excess of the fifth year's rental, but in no event shall the required expenditures exceed twice the rental for the 10th year. However, any expenditures for diligent operations during the first 5 years of the lease and any expenditures for diligent operations during any subsequent year in excess of the minimum required expenditures for that year may be credited, in such proportions as the lessee may designate, against (1) expenditures needed to qualify exploration operations as diligent operations for future years, or (2) any rental requirement for that or any future years in excess of the fifth year's rental pursuant to § 3205.3–3.

Subpart 3204—Surface Management Requirements, Special Requirements

§ 3204.1 General.

A lessee shall comply with and be bound by the following general terms and conditions, the specific requirements contained in the lease stipulations and any GRO orders that may be issued pursuant to 30 CFR 270.11. Assuring compliance with the requirements of this section is the responsibility of the Supervisor as to the lands within the area of operations and is the responsibility of the approprate land management agency as to the remaining lands in the lease.

(a) *Equal employment opportunity.* The lessee shall comply with Executive Order 11246, as amended, 30 F.R. 12319 (1965), and regulations issued pursuant thereto, 41 CFR Chapter 60 and Part 17 of this chapter.

(b) *Public access.* (1) The lessee shall permit free and unrestricted public access to and upon the leased lands for all lawful and proper purposes except in areas where such access would unduly interfere with operations under the lease or would constitute a hazard to health and safety. Restrictions on access will not be allowed without prior approval.

(2) During construction, the lessee shall regulate public access and vehicular traffic to protect the public, wildlife, and livestock from hazards associated with the project. For this purpose, the lessee shall provide warnings, fencing, flag men, barricades, and other safety measures as appropriate.

(c) *Pollution abatement.* The lessee shall comply with all Federal and State standards with respect to the control of all forms of air, land, water, and noise pollution, including, but not limited to, the control of erosion and the disposal of liquid, solid, and gaseous wastes. The Supervisor may, in his discretion, establish additional and more stringent standards, and, if he does so, the lessee shall comply with those standards. The lessee, in addition to any other action required by those standards, shall take the following specific actions:

(1) *Pesticides and herbicides.* The lessee shall comply with all rules issued by the Department of the Interior and the Environmental Protection Agency pertaining to the use of poisonous substances on public lands.

(2) *Water pollution.* The lessee shall conduct lease operations and maintenance in a manner consistent with Federal and State water quality standards and public health and safety standards. Toxic materials shall not be released into any surface waters or underground waters. Reinjection of waste geothermal fluids into geothermal or other suitable aquifers may be permitted when approved by the Supervisor.

(3) *Air pollution.* The lessee shall control emissions from operations in accordance with Federal and State air quality standards.

(4) *Erosion control.* The lessee shall minimize disturbance to vegetation, drainage channels, and streambanks. The lessee shall employ such soil and resource conservation and protection measures on the leased lands as the Supervisor deems necessary.

(5) *Noise control.* The lessee shall control noise emissions from operations.

(d) *Sanitation and waste disposal.* The lessee shall remove or dispose of all waste generated in connection with the operation in a manner acceptable to the Supervisor. The term "waste" as used in this stipulation means all discarded matter, including but not limited to human waste, trash, garbage, refuse, petroleum products, and waste material resulting from the extraction and processing operation.

(e) *Land subsidence, seismic activity.* The lessee shall take precautions necessary to minimize land subsidence or seismic activity which could result from production of geothermal resources and the disposal of waste fluid where such activity could damage or curtail the use of the geothermal resources or other resources, or other uses of the land and take such measures as stipulated to: (1) monitor operations for land subsidence and for seismic activity; and (2) maintain, and when requested, make

available to the lessor, records of all monitoring activities.

(f) *Aesthetics.* The lessee shall take aesthetics into account in the planning, design, and construction of facilities on the leased premises.

(g) *Fish and wildlife.* The lessee shall employ such measures as are deemed necessary to protect fish and wildlife and their habitat.

(h) *Antiquities and historical sites.* The lessee shall conduct activities on discovered, known or suspected archeological, paleontological, or historical sites in accordance with lease terms or specific instructions.

(i) *Restoration.* The lessee shall provide for the restoration of all disturbed lands in an approved manner.

§ 3204.2 Waste prevention.

All leases shall be subject to the condition that the lessee will, in conducting his exploration, development, and operations, use all reasonable precautions to prevent waste of geothermal resources and other resources found or developed in the leased lands.

§ 3204.3 Readjustment of terms and conditions.

(a) (1) Except as otherwise provided by law, the terms and conditions of any geothermal lease may be readjusted as determined by the authorized officer at not less than 10-year intervals beginning 10 years after the date geothermal steam is produced. Each lease shall provide for such readjustments.

(2) The authorized officer shall give notice to the lessee of any proposed readjustment of the terms and conditions of the lease and the nature thereof, and unless the lessee files with the authorized officer an objection to the proposed terms or relinquishes the lease within 30 days after receipt of such notice, the lessee shall be deemed conclusively to have agreed to such terms and conditions. If the lessee files objections, and agreement cannot be reached between the authorized officer and the lessee within a period of 60 days, the lease may be terminated by either party. If the lessee files objections to the proposed readjusted terms and conditions, the existing terms and conditions will remain in effect until there has been an agreement between the authorized officer and the lessee on the new terms and conditions to be applied to the lease or until the lease is terminated.

(b) Any readjustment of the terms and conditions of any lease of lands withdrawn or acquired in aid of a function of a Federal department or agency may be made only with the approval of that other agency.

§ 3204.4 Reservation to the United States of oil, hydrocarbon gas, and helium.

The United States reserves the ownership of and the right to extract oil, hydrocarbon gas, and helium from all geothermal resources produced from lands leased under the Act. Whenever the right to extract oil, hydrocarbon gas, and helium, from geothermal resources produced from such lands is exercised, it shall be exercised so as to cause no substantial interference with the production of geothermal resources from such lands.

§ 3204.5 Compensation for drainage; compensatory royalty.

(a) Upon a determination by the Supervisor that lands owned by the United States are being drained of geothermal resources by wells drilled on adjacent or cornering lands, the authorized officer may execute agreements with the owners of adjacent or cornering lands whereby the United States, or the United States and its lessees, shall be compensated for such drainage, such agreements to be made with the consent of any lessee affected thereby. The precise nature of any agreement will depend on the conditions and circumstances involved in the particular case.

(b) Where land in any lease is being drained of its geothermal resources by a well either on a Federal lease issued at a lower rate of royalty or on land not the property of the United States, the lessee must drill and produce all wells necessary to protect the leased lands from drainage. In lieu of drilling such wells, the lessee may, with the consent of the Supervisor, pay compensatory royalty in the amount determined in accordance with 30 CFR Part 270.

§ 3204.6 Patented lands.

The terms and conditions of any geothermal resource lease for lands conveyed by the United States subject to a reservation to the United States of geothermal resources may be readjusted upon notification to the surface owner.

Subpart 3205—Service Charges, Rentals and Royalties.

§ 3205.1 Payments.

§ 3205.1–1 Form of remittance.

Remittances required under these regulations may be made by cash payment, check, certified check, bank draft, bank cashier's check, or money order. All remittances will be deposited as received.

§ 3205.1–2 Where submitted.

(a) *Rentals on nonproducing leases.* Rentals under all nonproducing leases issued shall be paid at the proper BLM office. All remittances to the Bureau of Land Management shall be made payable to the Bureau of Land Management.

(b) *Other payments.* All royalties on producing leases, communitized leases in producing well units, unitized leases in producing unit areas, leases on which compensatory royalty is payable and all payments under easements for directional drilling are to be paid to the Supervisor. All remittances to the Supervisor shall be made payable to the U.S. Geological Survey.

§ 3205.2 Service charges.

(a) *Competitive lease applications.* No service charge is required.

(b) *Noncompetitive lease applications.* Applications for noncompetitive leases must be accompanied by a nonrefundable service charge of $50 for each application.

(c) *Assignments.* Applications for approval of an assignment of a lease or interest therein must be accompanied by a nonrefundable service charge of $50 for each application.

(d) *Nominations.* No service charge is required.

§ 3205.3 Rentals and royalties.

§ 3205.3–1 Payment with application.

Each application must be accompanied by payment of the first year's rental of not less than $1 per acre or fraction thereof based on the total acreage included in the application. An application accompanied by a payment of the first year's rental which is deficient by not more than 10 percent will be approved by the authorized officer provided all other requirements are met, but, if the additional rental is not paid within 30 days from notice, the application or the lease, if issued, will be canceled.

§ 3205.3–2 Payment of annual rental.

(a) Annual rental in the amount specified in the lease which shall be not less than $1 per acre or fraction thereof must be paid in advance and must be received by the proper BLM office on or before the anniversary date of the lease. If there is no well on the leased lands capable of producing geothermal resources in commercial quantities, the failure to pay rental on or before the anniversary date shall terminate the lease by operation of law, except as provided by § 3245.2.

(b) If, on the anniversary date of the lease, less than a full year remains in the lease term, the rentals shall be payable in the same proportion as the period remaining in the lease term is to a full year. The rentals shall be prorated on a monthly basis for the full months, and on a daily basis for the fractional month remaining in the lease term. For the purpose of prorating rentals for a fractional month, each month will be deemed to consist of 30 days.

(c) If the term of a lease for which prorated rentals have been paid is further extended to or beyond the next anniversary date of the lease, rentals for the balance of the lease year shall be due and payable on the 1st day of the first month following the date through which the prorated rentals were paid. If the rentals are not paid for the balance of the lease year, the lease will be subject to cancellation. However, if the anniversary date occurs before the end of the notice period, the rental for the following lease year shall nevertheless be due on the anniversary date and failure to pay the full rental for that year on or before that date shall cause the lease to terminate automatically by operation of law except as provided by § 3245.2. The lessee shall not be relieved of liability for rental due for the balance of the previous lease year.

(d) If the payment is due on a day in which the proper BLM office to receive payment is not open, payment received on the next official working day will be deemed to be timely.

§ 3205.3 Escalating rental rates.

To encourage the orderly and timely development of geothermal leases, all leases issued pursuant to the regulations in this Group will provide that, beginning with the sixth year and for each year thereafter until the lease year beginning on or after the commencement of production of geothermal resources in commercial quantities, the rental will be set by the authorized officer as the amount of rental for the preceding year plus an additional rental of $1 per acre, but the authorized officer may, upon a showing of sufficient justification by the lessee, waive the payment of all or any portion of the additional rental.

§ 3205.3–4 Fractional interests.

Rentals, minimum royalties, and royalties payable for lands in which the United States owns an undivided fractional interest shall be in the same proportion to the rentals, minimum royalties, and royalties provided for in § 3205.3, as the undivided fractional interest of the United States in the geothermal resources is to the full geothermal resources interest.

§ 3205.3–5 Royalty on production.

Royalty shall be paid at the following rates on geothermal resources:

(a) A royalty, as set forth in the lease, of not less than 10 per centum and not more than 15 per centum of the amount or value of steam, or any other form of heat or energy derived from production under the lease and sold or utilized by the lessee or reasonably susceptible to sale or utilization by the lessee; (b) a royalty, as set forth in the lease, of not more than 5 per centum of any byproduct derived from production under the lease and sold or utilized or reasonably susceptible of sale or utilization by the lessee, except that as to any byproduct which is a mineral named in section 1 of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181), the rate of royalty for such mineral shall be the same as that provided in that Act and the maximum rate of royalty for such mineral shall not exceed the maximum royalty applicable under that Act; (c) In no event shall the royalty on any producing lease for any lease year, commencing with the lease year beginning on or after the commencement of production in commercial quantities, be less than $2 per acre or fraction thereof, and this minimum royalty, in lieu of rental, shall be payable at the expiration of each lease year.

§ 3205.3–6 Royalty on commercially demineralized water.

All geothermal leases issued pursuant to the provisions of this group shall provide for the payment to the lessor of a royalty on commercially demineralized water at a rate to be specified in the lease of not more than 5 per centum of the value of such commercially demineralized water that has beeen sold or utilized by the lessee or is reasonably susceptible of sale or utilization by the lessee, except that no payment of a royalty will be required on such water if it is used in plant operation for cooling or in the generation of electric energy or otherwise.

§ 3205.3–7 Waiver, suspension or reduction of rental or royalty.

(a) The authorized officer may waive, suspend, or reduce the rental or royalty for any lease or portion thereof in the interests of conservation and to encourage the greatest ultimate recovery of geothermal resources if he determines that this is necessary to promote development or that the lease cannot be successfully operated under the lease terms.

(b) An application hereunder shall be filed in triplicate with the Supervisor, and must: (1) Contain the serial number of the leases and the names of the lessee and operator; (2) show the number, location, and status of each well that has been drilled, a tabulated statement for each month covering a period of not less than 6 months prior to the date of filing the application of the aggregate amount of production subject to royalty computed in accordance with the operating regulations, the number of wells counted as producing each month, and the average production per well per day; (3) contain a detailed statement of expenses and costs of operating the lease, the income from the sale of any leased products and all facts tending to show whether the wells can be successfully operated using the royalty or rental fixed in the lease; and (4) where the application is for a reduction in royalty, furnish full information as to whether royalties or payments out of production are paid to others than to the United States, the amounts so paid, and the efforts made to reduce them. The applicant must also file agreements of the holders to a comparable reduction of all other royalties from the leasehold to an aggregate not in excess of one-half the Government royalties.

§ 3205.3–8 Application for and effect of suspension of operations and production.

(a) Applications by lessees for suspensions of operations or production, or both, under a producing geothermal lease (or for relief from any drilling or producing requirements of such a lease) shall be filed in triplicate with the Supervisor, who is authorized to act on applications filed pursuant to this section and to terminate suspensions which have been or may be granted. Complete information must be furnished showing the necessity of the relief sought.

(b) A suspension shall take effect as of the time specified in the order of the Supervisor. Rental or minimum royalty payments will be suspended during any period of suspension of all operations and production directed, or assented to, by the Supervisor, beginning with the first day of the lease month in which the suspension of operations and production becomes effective or, if the suspension of operations and production becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. The suspension of rental or royalty payments shall end on the first day of the lease month in which operations or production is resumed. Where rentals are creditable against royalties and have been paid in advance, proper credit will be allowed on the next rental or royalty due under the lease.

(c) No lease shall be deemed to expire by reason of a suspension of either operations or production, pursuant to any order or assent of the Supervisor.

(d) If there is a well on the leased premises capable of producing geothermal resources and all operations and production are suspended pursuant to any order of the Supervisor, approval of recommencement of drilling operations will terminate the suspension as to operations but not as to production, and will terminate both the period of suspension of rental and royalty payments provided in paragraph (b) of this section and the period of suspension for which an equivalent extension will be granted. However, as provided in paragraph (c) of this section, the lease will not be deemed to expire so long as the suspension of operations or production remains in effect.

(e) The relief authorized under this section may also be obtained for any leases included within an approved unit or cooperative plan of development and operation.

(f) See 30 CFR 270.17 for regulations concerning action of the Supervisor on applications filed pursuant to this section.

§ 3205.3–9 Readjustments.

The rentals and royalties of any geothermal lease may be readjusted at not less than 20-year intervals beginning 35 years after the date geothermal steam is produced as determined by the Supervisor. In the event of any such readjustment neither the rental nor royalty paid during the preceding period shall be increased by more than 50 per centum, and in no event shall the royalty payable exceed 22½ per centum. Each geothermal lease shall provide for such readjustment. The Supervisor will give notice of any proposed readjustment of rental or royalties. Unless the lessee relinquishes the lease within 30 days after receipt of such notice, he shall conclusively be deemed to have agreed to such terms and conditions. If the lessee files objections, and no agreement can be reached between the authorized officer and the lessee within a period of 60 days, the lease may be terminated by either party. If the lessee files objections to the proposed readjusted terms and conditions, the existing terms and conditions will remain in effect until there has been an agreement between the authorized officer and the lessee on the new terms and conditions to be applied to the lease or until the lease is terminated.

§ 3205.4 Rental and minimum royalty liability of lands committed to cooperative or unit plans.

§ 3205.4–1 Prior to production.

All lands within any lease committed to an approved cooperative or unit plan

shall at all times prior to production on any of the lands so committed remain liable for rental in accordance with § 3205.3–3.

§ 3205.4–2 After production.

As soon as production is obtained on or for any lands included in an approved cooperative or unit plan those lands which are included within the participating area of the producing well shall become liable for royalties in accordance with Subpart 3205. All other unitized lands, except those lands included in the lease on which production was obtained, shall remain liable for rental in accordance with § 3205.3–3.

Subpart 3206—Lease Bonds

§ 3206.1 Types of bonds and filing.

§ 3206.1–1 Types of bonds.

(a) Bonds shall be either corporate surety bonds or personal bonds except that bonds with individual sureties may be furnished for the protection of the entryman or owner of the surface rights.

(b) Lease compliance bond. The applicant for a noncompetitive lease or the successful bidder for a competitive lease must furnish, prior to the issuance of the lease, and thereafter maintain a corporate surety bond of not less than $10,000 conditioned on compliance with all the terms of the lease.

(c) Protection bond. A lessee will be required prior to entry on the leased lands to furnish and maintain a bond of not less than $5,000 for indemnification for all damages occasioned to persons or property as the result of lease operations.

§ 3206.1–2 Filing of bonds.

A single original copy of the bond on forms approved by the Director must be filed in the proper BLM office. Bonds may be filed with a noncompetitive lease application to expedite action thereon, or within 30 days after receipt of notice by the applicant of the bond requirement, or as required and directed by the authorized officer. For unit bond forms see 30 CFR Part 271.

§ 3206.2 Termination of period of liability.

The period of liability of any bond will not be terminated until all lease terms and conditions have been fulfilled.

§ 3206.3 Operators bond.

An operator, or, if there are more than one for different portions of the lease, each operator, shall furnish a corporate surety bond or bonds in an amount prescribed by the Supervisor.

§ 3206.4 Qualified corporate sureties.

Treasury lists. A list of companies holding certificates of authority from the Secretary of the Treasury under the Act of July 30, 1947 (6 U.S.C. 6–13), as acceptable sureties on Federal bonds is published in the FEDERAL REGISTER annually.

§ 3206.5 Nationwide bond.

In lieu of bonds required under any of the preceding paragraphs, the holder of leases or of operating agreements approved by the Department or holder of operating rights by virtue of being designated operator or agent by the lessee pending departmental approval of operating agreements may furnish a bond the amount of which must be not less than for $150,000 for full nationwide coverage for all geothermal leases.

§ 3206.6 Statewide bond.

In lieu of any of the bonds required by the preceding paragraphs, the holder of leases or of operating agreements approved by the Department or holder of operating rights by virtue of being designated operator or agent by the lessee pending departmental approval of operating agreements, may furnish a statewide bond, applicable to the State in which the leases are situated, the amount of which must be at the rate of not less than $50,000 for each unit of coverage.

§ 3206.7 Default.

§ 3206.7–1 Payment by surety.

Where upon a default the surety makes payment to the Government of any indebtedness due under a lease, the face amount of the surety bond and the surety's liability thereunder shall be reduced by the amount of such payment.

§ 3206.7–2 Penalty.

Thereafter, upon penalty of cancellation of all of the leases covered by that bond, the principal shall post a new nationwide bond in the amount of $150,000 or a unit bond, as the case may be, within 6 months after notice, or within such shorter period as the authorized officer may fix. However, in lieu thereof, the principal may within that time file separate bonds for each lease.

§ 3206.8 Applicability of provisions to existing bonds.

The provisions hereof may be made applicable to any nationwide or statewide bond in force at the time of the approval of the amendment of this paragraph by filing in the proper BLM office a written consent to that effect and an agreement to be bound by the provisions hereof executed by the principal and the surety. Upon receipt thereof the bond will be deemed to be subject to the provisions of this paragraph.

PART 3210—NONCOMPETITIVE LEASES

Subpart 3210—Noncompetitive Leases; General

Sec.
3210.1 Availability of land.
3210.2–1 Application.
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3210.4 Rejections.

Subpart 3211—Bureau Motion, Lands Previously Leased for Geothermal Resources

3211.1 Releasing of formerly leased lands.
3211.2 Nominating procedures.
3211.3 Leasing units receiving multiple nominations.
3211.4 Leasing units receiving single nominations.
3211.5 Rental returned.

Subpart 3210—Noncompetitive Leases; General

§ 3210.1 Availability of land.

Lands and deposits subject to disposition under this part which are not within any KGRA will be available for leasing after the effective date of these regulations. All applications to lease the same lands which are filed between the effective date of these regulations and 30 days following that time will be considered to have been filed simultaneously, and the respective priority of the various applications will be determined in accordance with § 3210.3. An application will be deemed to be for the lease of the same lands as a previous application when it includes not less than half the acreage embraced in the previous application. The date and the time when the first application on a tract is filed will be recorded. (a) No action on any application will be taken until the conclusion of the initial 30-day period. At that time, the tracts in a potential geothermal resource area will be listed in the order in which the first application was filed on each. Final action will not be taken on any application filed on a tract until final action has been taken on all the applications on each tract within the same potential geothermal resource area preceding that tract on the list: *Provided, however,* That if, because of an appeal or for some other reason, final action is delayed on a tract having priority, final action may be taken on tracts having lower priority as long as that final action does not result in the issuance of so many leases within that prospective area as to cause it to become a KGRA. (b) Final action will not be taken on any application filed after the initial 30-day period until final action has been taken on all applications filed during that period on that potential geothermal resource area. If, after the conclusion of the 30-day period, applications are filed on more than one tract within a potential geothermal resource area on the same day, the tracts will be listed in the order in which the first application was filed on each. Final action will not be taken on any application filed on a tract until final action has been taken on all the applications on each tract within the same potential geothermal resource area preceding that tract on the list and on all applications on tracts in that potential geothermal resource area filed on any previous day: *Provided, however,* That if, because of an appeal or for some other reason, final action is delayed on a tract having priority, final action may be taken on tracts having lower priority as long as that final action does not result in the issuance of so many leases within that potential geothermal resource area as to cause it to become a KGRA. (c) An application

which, because it does not cover at least half the acreage included in a previous application, is not deemed to have been filed simultaneously with that previous application will be amended by the deletion of any acreage included in a lease by the time it becomes subject to final action, but the authorized officer, if he determines it desirable, may add to the application contiguous acreage not in excess of the acreage deleted.

§ 3210.2–1 Application.

No specific form is required. An application for a lease must be filed in the proper BLM office in duplicate for public lands and in triplicate for acquired lands. An application will be considered filed when it is received in the proper office during business hours. The application must include the following:

(a) The applicant's name and address;

(b) A statement of applicant's citizenship and qualifications;

(c) A complete and accurate description of the lands applied for;

(d) A proposed plan which shall include: (1) A map, or maps, available from State or Federal sources, showing the topography of the land applied for, on which the applicant shall show drainage patterns, present road and trail locations, present utility systems, proposed road and trail location, proposed well locations and potential surface disturbance, and (2) a narrative statement setting forth his proposed exploration plan and methods. Such plan shall provide for a program of diligent exploration as defined in § 3203.5 of this subchapter.

The narrative statement should also describe the measures proposed to be taken to prevent or control fire, soil erosion, pollution of surface and ground water, damage to fish and wildlife or other natural resources, air and noise pollution and hazards to public health and safety during lease activities; and

(e) A statement of interest, direct or indirect, in other Federal geothermal leases or applications in the same State. Such total interest may not exceed 20,480 acres.

§ 3210.2–2 Withdrawal of application.

An application may not be withdrawn, either in whole or in part, unless the request is received by the proper BLM office before the lease has been signed on behalf of the United States even though the effective date of the lease is subsequent to the date of filing of the withdrawal, except where a separate conflicting lease has been signed on behalf of the United States covering the land described in the withdrawal.

§ 3210.2–3 Amendment to lease.

If any of the land applied for is open to filing when the application was filed but is omitted from the lease for any reason and thereafter becomes available for noncompetitive leasing, the original lease will be amended to include the omitted land unless, before the issuance of the amendment, the proper BLM office receives a withdrawal of the lessee's application with respect to such land or such omitted lands have been determined to be within a KGRA.

§ 3210.3 Determination of priorities.

No lease shall be issued before final action has been taken on (a) any prior application to lease the land, (b) any subsequent application to lease the land that is based upon a claimed preferential right, and (c) any petition for the renewal or reinstatement of an existing or former lease on the land. If a lease is issued before final action has been taken on such applications and petitions, it shall be canceled, and the advance rental returned, after due notice to the lessee, where the applicant or petitioner is found to be qualified and entitled to receive a lease of the land. Multiple applications for lease of the same lands received in the mail or delivered on the same day will be deemed to have been simultaneously filed. After the receipt of applications and prior to the issuance of any lease, a determination shall be made as to whether or not the lands are within a KGRA. If the lands are then determined not to be within any KGRA, the right of priority to a noncompetitive geothermal lease, among those persons simultaneously filing therefor, will be determined by a public drawing.

§ 3210.4 Rejections.

If, after the filing of an application for a noncompetitive lease and before the issuance of a lease, or amendment thereto, pursuant to that application, the land embraced in the application becomes included within a KGRA, the application will be rejected as to such KGRA lands. The authorized officer retains discretion to reject an application for a noncompetitive lease even though the tract for which application is made is not determined to be within a KGRA.

Subpart 3211—Bureau Motion—Land Previously Leased for Geothermal Resources

§ 3211.1 Releasing of formerly leased lands.

From time to time the authorized officer will publish in the FEDERAL REGISTER, post in each proper BLM office, and provide appropriate news coverage of: (a) A list of leasing units composed of lands in canceled, expired, relinquished, or terminated leases which are not withdrawn from leasing or not included in a KGRA and which he has determined to be available for leasing; (b) a request for nomination for leasing; (c) terms and conditions on which a lease, if issued, will be conditioned; (d) address of proper BLM office; and (e) requirements for a complete nomination. Nominations of tracts should be addressed to the proper BLM office.

§ 3211.2 Nominating procedures.

No specific form is required. Only one complete leasing unit, identified by unit number, may be included in a nomination. Lands not on the published list may not be included in the nomination. The nomination must be accompanied by (a) the first year's advance rental, and (b) a signed statement that the nominator will furnished the information required by these regulations within 15 days after notification that his nomination is the only one for the tract.

§ 3211.3 Leasing units receiving multiple nominations.

If the lands are determined not to be within any KGRA, multiple nominations for such lands within the prescribed period will be considered as simultaneous filings and each nominator will be given the opportunity to qualify for a lease in accordance with Subpart 3210. Where more than one nominator qualifies for a lease, the priority shall be determined by public drawing.

§ 3211.4 Leasing units receiving single nominations.

(a) Tracts receiving only one nomination, which have not been included within any KGRA, will be leased to the nominator, upon payment of a $50 filing fee and upon his compliance with all applicable regulations, including those in Subpart 3210.

(b) If no nominations are received a lease may be issued pursuant to an application filed in accordance with these regulations.

§ 3211.5 Rental returned.

If an applicant or nominator withdraws his application or nomination or if his application or nomination to lease is rejected, the advance rental will be returned to him.

PART 3220—COMPETITIVE LEASES

Subpart 3220—Competitive Leases; General

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3220.4 Contents of notice of lease sale.
3220.5 Bidding requirements.
3220.6 Award of lease.

Subpart 3220—Competitive Leases; General

§ 3220.1 General.

(a) Lands within a KGRA, except as provided under § 3201.1, will be available for leasing on the effective date of these regulations.

(b) The authorized officer will accept nominations to lease, or may on his own motion from time to time call for nominations to lease. Nominations may be withdrawn at any time.

§ 3220.2 Nominations.

(a) No specific form is required.

(b) A nomination must be filed in the proper BLM office in duplicate for public lands and triplicate for acquired lands and must include the following:

(1) The nominator's name and address;

(2) A statement of citizenship and qualifications for lease;

(3) A description of the lands; and

(4) A statement of the interests, direct or indirect, held in other Federal geothermal leases or nominations in the same State.

§ 3220.3 Publication of notice of lease sale.

Where the Secretary determines to offer all or any of the nominated land for competitive leasing he will publish a notice of lease sale in a newspaper of general circulation in the area in which the lands to be leased are located once a week for 4 consecutive weeks, or for such other period as he may direct.

§ 3220.4 Contents of notice of lease sale.

The notice will state that the successful bidder will be required, prior to the issuance of a lease, to pay his proportionate share of the total cost of publication of the notice which shall be that portion of the total advertising cost that the number of parcels of land awarded to him bears to the number of parcels for which high bidders are declared. The notice will also state the time and place of sale, the manner in which bids may be submitted, the description of the lands and the terms and conditions of the sale, including royalty and rental rates.

§ 3220.5 Bidding requirements.

(a) A separate sealed bid must be submitted for each lease unit. Each bidder must submit with his bid a certified or cashier's check, bank draft, money order or cash in the amount of one-half of the amount bid together with proof of qualifications as required by these regulations.

(b) All bidders are warned against violation of the provisions of Title 18 U.S.C. section 1860 prohibiting unlawful combination or intimidation of bidders.

§ 3220.6 Award of lease.

All sealed bids shall be opened at the place, date, and hour specified in the notice. No bids will be accepted or rejected at that time, except as otherwise provided in these regulations as provided in Part 3230 of this chapter or elsewhere in these regulations, and the notice for invitation for bids covering the lands involving possible lease conversion rights. Leases will be awarded to the highest responsible qualified bidder. The right to reject any and all bids is reserved. If the authorized officer fails to accept the highest bid for a lease within 30 days after the date on which the bids are opened, all bids will be considered rejected. If the lease is awarded, three copies of the lease will be sent to the successful bidder who shall be required to execute them within 30 days from receipt thereof, to pay the first year's rental, the balance of the bonus bid, and file the required bond or bonds. Deposits on rejected bids will be returned. If the successful bidder fails to execute the lease or otherwise comply with the applicable regulations, his deposit will be forfeited and disposed of as other receipts under the Act. When the three copies of the lease are executed by the successful bidder and returned to the authorized officer, the lease will be executed by the authorized officer and a copy will be mailed to the successful bidder.

PART 3230—RIGHTS TO CONVERSION TO GEOTHERMAL LEASES OR APPLICATION FOR GEOTHERMAL LEASES

Subpart 3230—Rights to Conversion to Geothermal Leases or Application for Geothermal Leases; General

Sec.

Subpart 3230—Rights to Conversion to Geothermal Leases or Application for Geothermal Leases

§ 3230.1 General.

§ 3230.1–1 Rights to conversion to geothermal leases.

Where lands were on September 7, 1965, subject to valid leases or permits issued under the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181–287), or the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–358), or subject to existing mining claims located on or prior to September 7, 1965, the lessees, permittees, or claimants, or their successors in interest, if qualified to hold geothermal leases, shall have the right, subject to certain limitations as hereinafter provided, to convert such leases, permits or claims to geothermal leases covering the same lands.

§ 3230.1–2 Rights to conversion to applications for geothermal leases.

Where lands were subject to application for leases or permits under the mineral leasing laws referred to in § 3230.1–1 on September 7, 1965, the applicants may, subject to certain limitations as hereinafter provided, convert their applications to applications for geothermal leases having priorities dating from the time of filing such applications under said mineral leasing laws.

§ 3230.1–3 Land in which minerals are reserved to the United States.

Where a right to one of the forms of conversion referred to in § 3230.1–1 or § 3230.1–2 is claimed as to lands the surface of which has passed from Federal ownership but in which the minerals have been reserved to the United States, final action on any claim to conversion rights under section 4 of the Act shall be held in abeyance until such time as the question of title to the geothermal resources in such lands has been resolved pursuant to the provisions of section 21(b) of the Act, unless the Secretary determines that it is in the public interest to make a determination of such claims at an earlier time, subject to the rights, if any, of non-Federal owners.

§ 3230.1–4 Conflicting claims of rights to conversion to geothermal leases.

Where there are conflicting claims of rights to conversion to geothermal leases based upon mineral leases, mineral permits, or mining claims embracing the same land, the date of issuance of the permit or lease or of recordation of the claim shall determine priority.

§ 3230.1–5 Evidence required to qualify for grant of rights to conversion to geothermal leases.

Any person claiming rights to conversion to a geothermal lease must show to the reasonable satisfaction of the authorized officer that substantial expenditures for the exploration, development or production of geothermal steam were made on the lands for which a lease is sought or on adjoining, adjacent or nearby lands, including both Federal and non-Federal lands.

§ 3230.1–6 Method of leasing to owners of conversion rights to geothermal leases.

(a) *Lands included within any KGRA—(1) Competitive lease.* Where lands have been included with any KGRA, the owner of a conversion right to a geothermal lease for such lands shall be entitled to the issuance of a competitive lease only in accordance with the provisions of subparagraph (2) of this paragraph.

(2) *Preference right.* Lands which have been included within any KGRA shall be leased only by competitive bidding in the manner prescribed in Subpart 3220 of this chapter. The person owning the right to conversion to a geothermal lease shall be informed by written notice of the highest bona fide bid submitted for the lease at the sale. If within thirty (30) days after he has received that written notice, the person owning the right to conversion to a geothermal lease shall inform the authorized officer that he wishes such a lease, pay an amount equal to the highest bona fide bid submitted, and pay the rental for the first year, a lease will be issued to him.

(b) *Lands not included within any KGRA—Noncompetive lease.* Where lands have not been included within any KGRA, the owner of a conversion right to a geothermal lease for such lands, if otherwise qualified, shall be entitled to the issuance of a noncompetitive lease for such lands.

§ 3230.1–7 Acreage limitation.

No person shall be permitted to obtain, through conversion of mineral leases or prospecting permits, or applications therefor, or mining claims, leases for more than 10,240 acres, or a lease to any land not included in the lease, permit, application or claim converted.

§ 3230.2 Qualifications.

Persons who believe they are qualified under the Act to convert mineral leases or permits or existing mining claims to geothermal leases and persons who believe they are entitled to convert applications for mineral leases and permits to applications for geothermal leases shall comply with the procedures set forth below.

§ 3230.3 Applications.

§ 3230.3–1 Filing of application.

A written application shall have been filed with the proper BLM office on or before June 22, 1971, pursuant to the notice published in the FEDERAL REGISTER of January 15, 1971, 36 F.R. 623. If such an application has been filed and does not contain the information specified in § 3230.3–2 hereof, such information must be supplied by the applicant within 60 days of the effective date of these regulations.

§ 3230.3–2 Statements required.

(a) An application based on a valid lease or permit referred to in section 3230.1–1 hereof shall include the date of issuance, the State in which the lands are located, and the serial number of the lease or permit. An application based on a mining claim referred to in § 3230.1–1 shall include the name, location, legal description or reference sufficient to identify the lands on the ground, date of location and date and place of recordation of the mining claim (including volume and page) which the applicant seeks to convert to a geothermal lease. An application based on an application for a mineral lease or permit referred to in § 3230.1–1 shall include the date the application for the lease or permit was filed with the Bureau of Land Management and the location of the proper BLM office where the application was filed, and should indicate the serial number assigned to the application.

(b) An application shall include a description of the lands sought to be included in a geothermal lease. If the lands have been surveyed under the public land rectangular system, each application shall describe the lands by legal subdivision, section, township, and range. If the lands have not been so surveyed, or it is otherwise appropriate, each application shall describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to a monument or to a prominent topographic feature. When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, each application for lands shown on such protracted surveys, filed on or after such effective date, shall describe the lands according to the legal subdivision, section, township, and range shown on the approved protracted surveys.

(c) An application shall be accompanied by a detailed statement showing: (1) The expenditures made for the exploration, development, or production of geothermal steam by the applicant on lands for which a geothermal lease is sought or on adjoining, adjacent or nearby Federal or non-Federal lands and the date or dates such expenditures were made, (2) the names and current addresses of the persons who actually performed the aforesaid exploration, development, or production work, (3) the geological, geophysical, and engineering data acquired in such exploration, development, and production which demonstrates, or tends to demonstrate the expenditures claimed, and (4) a map showing the location where the expenditures and improvements were made.

(d) The applicant shall file such additional information with respect to the application as requested by the authorized officer.

§ 3230.4 Conversion to geothermal leases or to applications for geothermal leases.

§ 3230.4–1 Processing and adjudicating applications.

Application for conversion to geothermal leases or to applications for geothermal leases together with all information and data submitted pursuant to § 3230.3–2 hereof and any other pertinent available information or data shall be reviewed by the authorized officer for the purpose of determining whether the required showing has been made, and thereafter the authorized officer shall prepare a proposed determination which shall be submitted to the Secretary.

§ 3230.4–2 Approval.

The authorized officer will make a determination that the applicant has or has not satisfactorily shown that he is entitled to receive the grant of a geothermal lease, or application for a geothermal lease.

PART 3240—RULES GOVERNING LEASES

Subpart 3240—Rules Governing Leases

Subpart 3241—Lease Extensions, Continuations, or Renewal

Subpart 3242—Assignments and Transfers

Subpart 3243—Production and Use of Byproducts

Subpart 3244—Cooperative Conservation Provisions

Subpart 3245—Terminations and Expirations

Subpart 3241—Lease Extensions, Continuation, or Renewal

§ 3241.1 Applications.

An application for lease extension, continuation, or renewal shall be filed by the record title holder of the lease or by an assignee of the record title whose assignment has been filed for approval, or by an operator whose operating agreement has been filed for approval.

§ 3241.2 Forms.

An application for extension or renewal must be filed, in triplicate for public lands and in quadruplicate for acquired lands during the 90-day period prior to the expiration date of the lease, on a form approved by the Director or unofficial copies of that form in current use. The application must be accompanied by a service charge of $50 which will be retained as a service charge even though the application is later withdrawn or rejected, and a statement setting forth the reasons the extension is

requested. The unofficial copies must be exact reproductions, on one sheet of both sides, of the official form.

§ 3241.3 Segregating effect of application.

The timely filing of an application by the lessee or other qualified party as provided under § 3241.1 for extension shall have the effect of segregating the leased lands from all other applications until the final action taken on the application is noted, for public lands, on the tract book, or, for acquired lands, on the official records relating thereto, of the proper BLM office.

§ 3241.4 Rejection.

If, during the 90-day period prior to the expiration date of the lease, the record title holder, assignee of record title, or operator files an application or request for extension, which is not on the prescribed form or unofficial copies thereof, or fails to file the prescribed number of copies, he shall be notified of the defect and allowed 30 days after receipt of notice in which to correct it. If the applicant fails to correct the defect within the time prescribed, the application will be rejected. The lands previously covered by the rejected application for extension will be subject to the filing of new lease offers only as provided in these regulations.

§ 3241.5 Expiration by operation of law.

Upon failure of the lessee or other person enumerated in § 3241.1 to file an application for extension within the specified period, the lease will expire at the end of its primary term without notice to the lessee. Notation of such expiration need not be made on the official records, but the lands previously covered by that expired lease will be subject to the filing of new lease offers only as provided in these regulations.

Subpart 3242—Assignments and Transfers

§ 3242.1 Assignments, transfers, interests, qualifications.

§ 3242.1–1 Record title assignments or transfers of leases or undivided lease interests.

(a) The record title of leases may be assigned as to all or part of the leased acreage, except that no assignment will be approved where (1) either the assigned or retained portions created by the assignment would be less than 640 acres, unless the total acreage in the lease being partially assigned is less than 1,280 acres occasioned by an irregular subdivision, as provided in § 3203.2 of this part, in which case the assigned and retained portions may be less than 640 acres by an amount which is smaller than the amount by which the area would be more than 640 acres if the irregular subdivision were added, or (2) an undivided interest of less than 10 percent would be created in the leased acreage. An exception to the minimum acreage provision of this section may be made by the Secretary where he finds such exception is necessary in the interest of conservation of the resources.

(b) To obtain approval of a transfer affecting the record title of a geothermal lease, a request for such approval must be made not more than 90 days after the date of the final execution of the assignment by the parties.

(c) A working interest or operating right may be assigned, provided that the assigned interest or right, divided or undivided, vests in the holder only the right to explore, develop and produce geothermal resources from the leased lands to the extent of the interest assigned.

§ 3242.1–2 Qualifications.

(a) No assignment will be approved (1) if the assignee or any other party in interest is not qualified to take and hold a lease; (2) if a required bond is not filed; or (3) if the statement of interest required under § 3202.2–1(a) is not filed.

(b) an assignment to a minor other than an heir or devisee of a lessee will not be approved.

(c) The assignment must be accompanied by a signed statement by the assignee either (1) that he is the sole party in interest in the assignment, or (2) setting forth the names and qualifications of the other parties holding interests in the lease. Where the assignee is not the sole party in interest, separate statements must be signed by each of the other parties and by the assignee setting forth the nature and extent of the interest of each party and the nature of the agreement between them. These separate statements must be filed in the proper BLM office not later than 15 days after the filing of assignment.

(d) Where an attorney-in-fact or agent signs, on behalf of the assignor or assignee, the instrument of transfer or the application for approval, evidence of the authority of the attorney-in-fact or agent to sign such assignment or application must be furnished to the authorized officer.

(e) In order for the heir or devisee of the deceased holder of a lease, an operating agreement, or an overriding royalty interest in a producing lease, to be recognized by the authorized officer as the holder of that lease, agreement or interest, the appropriate showing required under the regulations in § 3202.2–6 must be furnished to the authorized officer.

§ 3242.2 Requirements for filing of assignments or transfers.

§ 3242.2–1 Place of filing and service charge.

A request for approval of any assignment or other instrument of transfer of a lease or interest therein must be filed in the proper BLM office and accompanied by a nonrefundable service charge of $50. An application not accompanied by payment of such a service charge will not be accepted for filing.

§ 3242.2–2 Number of copies required.

Three copies of all instruments of assignment or transfer, and a single copy of any additional information relating to citizenship or qualifications of corporations must be filed in the proper BLM office.

§ 3242.2–3 Time of filing assignments, transfers of leases, or undivided lease interests.

(a) Any instrument of transfer of a lease or of an interest therein, including an assignment of working interests, operating agreements, and operating rights, must be filed in the proper BLM office for approval within 90 days from the date of execution of that instrument and must contain all of the terms and conditions agreed upon by the parties thereto, together with evidence and statements similar to that required of an applicant under these regulations in this group.

(b) A separate instrument of assignment must be filed in the proper BLM office for each geothermal lease involving transfers of record title. When transfers to the same person, association, or corporation involve more than one geothermal lease, one request for approval and one showing as to the qualifications of the assignee will be sufficient.

§ 3242.2–4 Forms and statements.

A form approved by the Director, or unofficial copies of that form in current use, must be used for transfers and requests for approval referred to in this section and must be filed in triplicate for public lands and in quadruplicate for acquired lands. Unofficials copies used must be exact reproductions on one sheet of both sides of the officially approved one-page form, except that the copies must include: (a) The following statement above the signature of the assignee: "This form is submitted in lieu of the official form and contains all of the provisions thereof as of the date of filing of this assignment;" and (b) the name and address of the printer or other party issuing unofficial reproductions of the official form. The approved form may be used for an assignment which affects a transfer of the record title to all or part of a geothermal lease, but it is not to be used for any other type of transfer. The application for assignment shall be deemed to be approved upon execution by the authorized officer.

§ 3242.2–5 Description of lands.

Each instrument of transfer must describe the lands involved in the same manner as described in the lease.

§ 3242.3 Bonds.

Where an assignment does not create separate leases, the assignee, if the assignment so provides, may become a joint principal on the bond with the assignor. Any assignment which does not convey the assignor's record title in all of the lands in the lease must also be accompanied by consent of his surety to remain bound under the bond of record as to the lease retained by said assignor, if the bond, by its terms, does not contain such consent. If a party to the assignment has previously furnished a nationwide or statewide bond, no additional showing by such party is necessary as to the bond requirement.

§ 3242.4 Approval.

Upon approval, an assignment shall be effective as of the first day of the lease month following the date of filing of the assignment required by this Subpart in the proper BLM office.

§ 3242.5 Continuing responsibility.

(a) The assignor and his surety will continue to be responsible for the performance of any obligation under the lease until the assignment is approved.

(b) Upon approval, the assignee and his surety shall be responsible for the performance of all lease obligations notwithstanding any terms in the assignment to the contrary.

§ 3242.6 Production payments.

If payments out of production are reserved, a statement must be submitted stating the details as to the amount, method of payment, and other pertinent items.

§ 3242.7 Overriding royalty interests.

§ 3242.7–1 General.

(a) Overriding royalty interests in geothermal leases constitute accountable acreage holdings under these regulations.

(b) If an overriding royalty interest is created which is not shown in the instrument of assignment or transfer, a statement must be filed in the proper BLM office describing the interest.

(c) Any such assignment will be deemed valid if accompanied by a statement over the assignee's signature that the assignee is a citizen of the United States, an association of such citizens, or a corporation organized under the laws of the United States or of one of the States or the District of Columbia, and that his interests in geothermal leases do not exceed the acreage limitations provided in these regulations.

(d) All assignments of overriding royalty interests must be filed for record in the proper BLM office within 90 days from the date of execution. Such interests will not receive formal approval.

§ 3242.7–2 Limitation of overriding royalties.

(a) Except as herein provided, an overriding royalty on the value of the output of all geothermal resources, or any of them, at the point of shipment to market may be created by assignment or otherwise: *Provided*, That, (1) the overriding royalty is not for less than one-fourth (¼) of 1 percent of the value of such output, and does not exceed 50 percent of the rate of royalty due to the United States as specified in the geothermal lease, or as reduced pursuant to such lease, and (2) the overriding royalty, when added to overriding royalties previously created, does not exceed the maximum rate established hereof.

(b) The creation of an overriding royalty interest that does not conform to the requirements of paragraph (a) of this section shall be deemed a violation of the lease terms, unless the agreement creating overriding royalties provides (1) for a prorated reduction of all overriding royalties so that the aggregate rate of royalties does not exceed the maximum rate established in paragraph (a) of this section and (2) for the suspension of an overriding royalty during any period when the royalties due to the United States have been suspended pursuant to the terms of the geothermal lease.

§ 3242.8 Lease account status; requirements.

Unless the lease account is in good financial standing as to the area covered by an assignment at the time the assignment and bond are filed, or is placed in good standing before the assignment is reached for action, the lease shall be subject to termination in accordance with these regulations.

§ 3242.9 Effect of assignment.

An assignment of the record title of the complete interest in a portion of the lands in a lease shall segregate the assigned and retained portions into separate and distinct leases. An assignment of an undivided interest in the entire leasehold shall not segregate the lease into separate or distinct leases.

Subpart 3243—Production and Use of Byproducts

§ 3243.1 General.

Where the Supervisor determines that production, use, or conversion of geothermal steam under a geothermal lease is susceptible of producing a valuable byproduct or byproducts, including commercially demineralized water contained in or derived from such geothermal steam for beneficial use in accordance with applicable State water laws, the authorized officer shall require substantial beneficial production or use thereof, except where he determines that:

(a) Beneficial production or use is not in the interest of conservation of natural resources;

(b) Beneficial production or use would not be economically feasible; or

(c) Beneficial production and use should not be required for other reasons satisfactory to him.

§ 3243.2 Prior rights.

The production or use of such byproducts shall be subject to the rights of the holders of preexisting leases, permits or claims covering the same lands or the same minerals.

§ 3243.3 Production and use of commercially demineralized water as a byproduct, production, and use of other sources of water.

§ 3243.3–1 General.

Except as provided in these regulations, or the lease, the lessee shall have the right to process fluids, including brine, condensate, and other fluids, which are associated with geothermal steam within lands subject to the geothermal lease for the purpose of developing, producing, and utilizing the commercially demineralized water recovered as a result of such processing.

§ 3243.3–2 Prohibition on production of commercially demineralized water.

The lessee shall not be authorized to engage in the primary production of commercially demineralized water from the produced fluids contained in or derived from geothermal steam referred to in § 3243.3–1, where such use would result in the undue waste of geothermal energy.

§ 3243.3–3 Water wells on geothermal areas.

All leases issued under these regulations shall be subject to the condition that, where the lessee finds only potable water in any well drilled for production of geothermal resources, the Secretary may, when the water is of such quality and quantity as to be valuable and useable for agricultural, domestic, or other purpose, acquire the casing in the well at the fair market value of the casing.

§ 3243.3–4 State water laws.

Nothing in these regulations shall constitute an express or implied claim or denial on the part of the Federal Government as to its exemption from State water laws.

Subpart 3244—Cooperative Conservation Provisions

§ 3244.1 Cooperative or unit plans.

For the purpose of more properly conserving the natural resources of any geothermal pool, field or like area, lessees and their representatives may unite with each other or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of any geothermal resource area, or any part thereof (whether or not any part of that geothermal resource area is then subject to any cooperative or unit plan of development or operation). Applications to unitize shall be filed with the Supervisor who shall certify whether such plan is necessary or advisable in the public interest. The procedure in obtaining approval of a cooperative or unit plan of development, the provisions for the supervision of the cooperative or unit plan, and a suggested text of an agreement, are contained in 30 CFR Part 271.

§ 3244.2 Acreage chargeability.

All leases committed to any unit or cooperative plan approved or prescribed by the Supervisor shall be excepted in determining holdings or control for purposes of acreage chargeability. For the extension of leases committed to a unit plan, see Subpart 3203 of these regulations.

§ 3244.3 Communitization or drilling agreements.

§ 3244.3–1 Approval.

(a) The Supervisor is authorized, when separate tracts under lease cannot be independently developed and operated in conformity with an established well-spacing or well-development program, to approve, or to require lessees to

enter into, communitization or drilling agreements providing for the apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit for the lease, or any portion thereof, with other lands, whether or not owned by the United States, when in the public interest. Operations or production pursuant to such an agreement shall be deemed to be operations or production as to each lease committed thereto.

(b) Preliminary requests to communitize separate tracts shall be filed in triplicate with the Supervisor.

(c) Executed agreements shall be submitted to the Supervisor in sufficient number to permit retention of five copies after approval.

§ 3244.3–2 Requirements.

The agreement shall describe the separate tracts comprising the drilling or spacing unit, disclose the apportionment of the production or royalties to the several parties and the name of the operator, and shall contain adequate provisions for the protection of the interests of all parties, including the United States. The agreement must be signed by or in behalf of all interested parties and will be effective only after approval by the Supervisor.

§ 3244.4 Operating, drilling, development contracts or a combination for joint operations.

§ 3244.4–1 Approval.

(a) The Secretary may on such conditions as he may prescribe, approve operating, drilling, or development contracts made by one or more geothermal lessees, with one or more persons, associations, or corporation whenever he shall determine that such contracts are required for the conservation of natural resources or in the best interest of the United States.

(b) The Secretary may approve a combination for joint operations, pursuant to which lessees may combine their interests in leases for the purpose of constructing and carrying on the business of producing geothermal resources, or of establishing and constructing common lines to be used by them jointly in the transmission or transportation of geothermal resources from their several wells or from the wells of other lessees, or to increase the acreage which may be acquired or held under the provisions of the Act relating to competitive leases.

(c) Contracts submitted for approval under this section should be filed with the Supervisor together with enough copies to permit retention of five copies after approval.

(d) The authority of the Secretary to approve operating, drilling, or development contracts or a combination for joint operations, without regard to acreage limitations ordinarily will be exercised only to permit operators to enter into contracts with a number of lessees sufficient to justify operations on a large scale for the discovery, development, production, or transmission, transportation, or utilization of geothermal resources, and to finance the same.

§ 3244.4–2 Requirements.

(a) The contract must be accompanied by a statement showing all the interests held by the contractor in the area or field and the proposed or agreed plan of operation or development of the field. All the contracts held by the same contractor in the area or field should be submitted for approval at the same time, and full disclosure of the project made. Complete details must be furnished in order that the Secretary may have facts upon which to make a definite determination in accordance herewith and to prescribe the conditions on which approval of the contracts shall be made.

(b) The application must show a reasonable need for the combination and that it will not result in any concentration of control over the production or sale of geothermal resources which would be inconsistent with the antimonopoly provisions of law.

§ 3244.4–3 Acreage chargeability.

All leases operated under approved operating, drilling or development contracts or a combination for joint operations and interests thereunder, shall be excepted in determining holdings or control for purposes of acreage chargeability.

Subpart 3245—Terminations and Expirations

§ 3245.1 Relinquishments.

(a) A lease, or any legal subdivision of the area covered by such lease, may be surrendered by the record title holder by filing a written relinquishment in triplicate in the proper BLM office. The relinquishment must: (1) describe the lands to be relinquished as described in the lease; (2) include a statement as to whether the relinquished lands had been disturbed and if so whether they were restored as prescribed by the terms of the lease; (3) state whether wells had been drilled on the lands and if so whether they had been placed in condition for abandonment; and (4) furnish a statement that all moneys due and payable to workmen employed on the leased premises have been paid.

(b) A relinquishment shall take effect on the date it is filed, subject to the continued obligation of the lessee and his surety: (1) To make payments of all accruing rentals and royalties; (2) to place all wells on the land to be relinquished in condition for suspension of operations or abandonment as prescribed by the Supervisor; (3) to restore the surface resources in accordance with all regulations and the terms of the lease; and (4) to comply with all other environmental stipulations provided for by such regulations or lease. A statement must be furnished that all moneys due and payable to workmen employed on the leased premises have been paid.

§ 3245.2 Automatic terminations and reinstatements.

§ 3245.2–1 General.

Except as provided in § 3245.2–2 any lease will automatically terminate by operation of law if the lessee fails to pay the rental on or before the anniversary date of such lease. However, if the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next official working day shall be deemed to be timely. The termination of the lease for failure to pay the rental must be noted on the official records of the proper BLM office. Upon such notation the lands included in such lease will become subject to leasing as provided for in Subpart 3211 of these regulations.

§ 3245.2–2 Exceptions.

(a) *Nominal deficiency.* If the rental payment due under a lease is paid on or before its anniversary date but the amount of the payment is deficient and the deficiency is nominal, the lease shall not have automatically terminated unless the lessee fails to pay the deficiency within the period prescribed in a Notice of Deficiency, or by the due date, whichever is later. A deficiency is nominal if it is not more than $10 or one percentum (1%) of the total payment due, whichever is more. The authorized officer shall send a Notice of Deficiency to the lessee on an approved form. The Notice shall be sent by certified mail, return receipt requested, and shall allow the lessee 15 days from the date of receipt to submit the full balance due to the proper BLM office. If the payment called for in the notice is not made within the time allowed, the lease will have terminated by operation of law as of its anniversary date.

(b) *Reinstatements.* (1) Except as hereinafter provided, the authorized officer may reinstate a lease which has terminated automatically for failure to pay the full amount of rental due on or before the anniversary date, if it is shown to his satisfaction that such failure was either justifiable or not due to a lack of reasonable diligence on the part of the lessee; and a petition for reinstatement, together with the required rental, including any back rental which has accrued from the date of termination of the lease, is filed with the proper BLM office.

(2) The burden of showing that the failure to pay on or before the anniversary date was justifiable or not due to lack of reasonable diligence will be on the lessee. Reasonable diligence normally requires sending or delivering payments sufficiently in advance of the anniversary date to account for normal delays in the collection, transmittal, and delivery of the payment. The authorized officer may require evidence, such as post office receipts, of the time of sending or delivery of payments.

(3) Under no conditions will a lease be reinstated if (i) a valid lease has been issued prior to the filing of a petition for reinstatement affecting any of the lands covered by the terminated lease, or (ii) the interest in the lands has been withdrawn, disposed of, or has otherwise become unavailable for leasing. However, the authorized officer will not issue a new lease for lands covered by a lease which terminated automatically until 90 days after the date of termination.

(4) Reinstatement of terminated leases is discretionary with the Secre-

tary. The basic criterion in accordance with which this discretion will be exercised is whether the Secretary would be willing to issue a lease if a new lease offer for the same land were under consideration.

§ 3245.3 Termination of lease for noncompliance with regulations or lease terms; notice; hearing.

A lease may be terminated by the authorized officer for any violation of these regulations, the regulations in 30 CFR Part 270, or the lease terms, 30 days after receipt by the lessee of notice from the authorized officer of the violation, unless (a) the violation has been corrected, or (b) the violation is one that cannot be corrected within the notice period and the lessee has in good faith commenced within the notice period to correct the violation and thereafter proceeds diligently to complete the correction. A lessee shall be entitled to a hearing on the matter of any such claimed violation or proposed termination of lease if a request for a hearing is made to the authorized officer within the 30-day period after notice. The procedures with respect to notice of such hearing and the conduct thereof, and with respect to appeals from decisions of hearing examiners upon such hearings, shall follow insofar as practicable the procedural rules applicable to hearings and appeals in public lands cases within the jurisdiction of the Board of Land Appeals, Office of Hearings and Appeals, contained in Department Hearings and Appeals Procedures, Part 4 of this title. The period for correction of violation or commencement to correct a violation of regulations or of lease terms, as aforesaid, shall be extended to 30 days after the lessee's receipt of the hearing examiner's decision upon such a hearing if the hearing examiner shall find that a violation exists.

§ 3245.4 Removal of materials and supplies upon termination of lease.

Upon the expiration of the lease, or the earlier termination thereof pursuant to this subpart, the lessee shall have the privilege at any time within a period of ninety (90) days thereafter of removing from the premises any materials, tools, appliances, machinery, structures, and equipment other than improvements needed for producing wells. Any materials, tools, appliances, machinery, structures, and equipment subject to removal, but not removed within the 90-day period, or any extension thereof that may be granted because of adverse climatic conditions during that period, shall, at the option of the Supervisor, become property of the lessor, but the lessee shall remove any or all such property where so directed by the lessor.

Dated: November 22, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

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PART III

DEPARTMENT OF THE INTERIOR

Geological Survey

■

GEOTHERMAL RESOURCES OPERATIONS ON PUBLIC, ACQUIRED AND WITHDRAWN LANDS

DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Parts 270, 271]

GEOTHERMAL RESOURCES OPERATIONS ON PUBLIC, ACQUIRED AND WITHDRAWN LANDS

Notice of Proposed Rulemaking

The purpose of this revision in the proposed rulemaking for implementing the Geothermal Steam Act of December 24, 1970 (30 U.S.C. 1001–1025), is to provide the public with revisions planned as a result of the public hearings and comments received on the Draft Environmental Statement and previously published proposed rulemaking on operations and units (36 F.R. 13722 and 37 F.R. 8094). The Act provides for the leasing of public lands for the purpose of geothermal resource exploration, development and production.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested parties may submit written comments, suggestions, or objections with respect to the proposed regulations to the Geothermal Coordinator, Department of the Interior, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

A Final Environmental Statement will be issued in accordance with the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) prior to promulgation of any operating and unit regulations.

GENERAL PROVISIONS

GENERAL PROVISIONS

§ 270.1 Purpose and authority.

The Geothermal Steam Act enacted on December 24, 1970 (84 Stat. 1566) referred to in this part as "the Act", authorizes the Secretary of the Interior to prescribe rules and regulations applicable to operations conducted under a lease granted pursuant to that Act, and for the development and conservation of geothermal steam and associated geothermal resources, the prevention of waste, the protection of the public interest, and the protection of water quality, and other environmental qualities. The regulations in this part shall be administered by the Director through the Chief, Conservation Division, or his duly appointed representative.

§ 270.2 Definitions.

As used in the regulations in this part, the term:

(a) "Secretary" means the Secretary of the Interior or any person duly authorized to exercise the powers vested in that officer.

(b) "Director" means the Director of the Geological Survey.

(c) "Supervisor" means a representative of the Secretary, subject to the direction and supervisory authority of the Director, the Chief, Conservation Division, Geological Survey, and the appropriate Regional Conservation Manager, Conservation Division, Geological Survey, authorized and empowered to regulate operations and to perform other duties prescribed in the regulations in this part or any subordinate of such a representative acting under his direction.

(d) "Geothermal lease" means a lease issued under 43 CFR Group 3200.

(e) "Lessee" means the individual, corporation, association, or municipality to which a geothermal lease has been issued and its successor in interest or assignee. It also means any agent of the lessee or an operator holding authority by or through the lessee.

(f) "Operator" means the individual, corporation, or association having control or management of operations on the leased lands or a portion thereof. The operator may be the lessee, designated operator, or agent of the lessee, or holder of rights under an approved operating agreement.

(g) "Geothermal resources" means (1) all products of geothermal processes, embracing indigenous steam, hot water, and hot brines; (2) steam and other gases, hot water, and hot brines, resulting from water, gas, or other fluids artificially introduced into geothermal formations; (3) heat or other associated energy found in geothermal formations; and (4) any byproduct derived therefrom.

(h) "Byproduct" means (1) any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium), which are found in solution or developed in association with geothermal steam and which have a value of less than 75 per centum of the value of the geothermal steam or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves, and (2) commercially demineralized water.

(i) "Participating area" means that part of the unit area which is deemed to be productive from a horizon or deposit and to which production would be allocated in the manner described in the unit agreement assuming that all lands are committed to the unit agreement.

(j) "Waste" means (1) physical waste, as that term is generally understood; (2) waste of reservoir energy through inefficiency, improper use of or unnecessary dissipation of reservoir energy; (3) the location, spacing, drilling, equipping, operating, or producing of any geothermal well or wells in a manner which causes or tends to cause reduction in the quantity of geothermal energy ultimately recoverable from a reservoir under prudent and workmanlike operations or which tends to cause unnecessary or excessive surface or subsurface loss or destruction of geothermal energy; and (4) the inefficient transmission of geothermal energy from the source (wellhead) to point of utilization.

(k) "Directionally drilled well" means the deviation of a well bore from the vertical or from its normal course in an intended predetermined direction or course with respect to the points of the compass. Directionally drilled well shall not include a well deviated for the purpose of straightening a hole that has become crooked in the normal course of drilling or holes deviated at random without regard to compass direction in an attempt to sidetrack a portion of the hole on account of mechanical difficulty in drilling.

(l) "Geothermal resources operational order" or "GRO order" means a formal numbered order, issued by the Supervisor, with the prior approval of the Chief, Conservation Division, Geological Survey, which implements the regulations in this part and applies to opera-

tions in an area, region, or any significant portion thereof.

(m) "Producible well" means a well which is capable of producing geothermal resources in commercial quantities.

(n) "Commercial quantities" means quantities sufficient to pay a profit after all costs of production have been met.

(o) "Area of operations" means that area of the leased lands which is required for exploration, development, and producing operations, and which is delineated on a map or plat which is made a part of the approved plan of operations. It encompasses the area generally needed for wells, flow lines, separators, surge tanks, drill pads, mud pits, workshops, and other such facilities used for on-project geothermal resources field exploration, development, and production operations.

JURISDICTION AND FUNCTIONS OF SUPERVISOR

§ 270.10 Jurisdiction.

Drilling and production operations, handling and measurement of production, determination and collection of royalty and, in general, all operations conducted on a geothermal lease are subject to the regulations in this part and the applicable regulations contained in 43 CFR Group 3200, and are under the jurisdiction of the Supervisor for the region in which the leased land is situated, subject to the supervisory authority of the Secretary and the Director.

§ 270.11 General functions.

The Supervisor is authorized and directed to carry out the provisions of this part. He will require compliance with the terms of geothermal leases, with the regulations in this part and the applicable regulations in 43 CFR Group 3200, and with the applicable statutes. He shall act on all applications, requests, and notices required in this part. In executing his functions under this part the Supervisor shall ensure that all operations, within the area of operations, will conform to the best practice and are conducted in such manner as to protect the deposits of the leased lands and to result in the maximum ultimate recovery of geothermal resources, with minimum waste, and are consistent with the principles of the use of the land for other purposes and of the protection of the environment. Inasmuch as conditions in one area may vary widely from conditions in another area, the regulations in this part are intended to be general in nature. Detailed procedures hereunder in any particular area will be covered by GRO orders. The requirements to be set forth in GRO orders relating to surface resources or uses will be coordinated with the appropriate land management agency. The Supervisor may issue oral orders to govern lease operations, but such orders shall be confirmed in writing by the Supervisor as promptly as possible. The Supervisor may issue other orders and rules to govern the development and method for production of a deposit, field, or area. Prior to the issuance of GRO orders and other orders and rules, the Supervisor may consult with, and receive comments from Federal and State agencies, lessees, operators, or interested parties. Before permitting other operations on the leased land, the Supervisor shall determine if the lease is in good standing, whether the lessee is authorized to conduct operations, has filed an acceptable bond, and has an approved plan of operations.

§ 270.12 Regulation of operations.

The Supervisor shall inspect and supervise operations performed under the regulations in this part to: (a) Prevent waste and damage to formations or deposits containing geothermal resources; (b) prevent unnecessary damage to other natural resources; (c) prevent degradation of the water quality; (d) protect other environmental qualities; and (e) prevent injury to life or property. The Supervisor shall issue such GRO orders as are necessary to accomplish these purposes.

§ 270.13 Required samples, tests, and surveys.

When necessary or advisable, the Supervisor shall require that adequate samples be taken and tests or surveys be made using acceptable techniques, without cost to the lessor, to determine the identity and character of formations; the presence of geothermal resources, water, or reservoir energy; the quantity and quality of geothermal resources, water or reservoir energy; the amount and direction of deviation of any well from the vertical; formation, casing, and tubing pressures, temperatures, rate of heat and fluid flow, and whether operations are conducted in a manner looking to the protection of the interests of the lessor.

§ 270.14 Drilling and abandonment of wells.

The Supervisor shall require that drilling be conducted in accordance with the terms of the lease, GRO orders, and the regulations in this part and 43 CFR Group 3200; and shall require plugging and abandonment of any well or wells no longer necessary for operations in accordance with plans approved or prescribed by him. Upon the failure of a lessee to comply with any requirement under this section, the Supervisor is authorized to perform the work at the expense of the lessee and the surety.

§ 270.15 Well spacing and well casing.

The Supervisor shall approve proposed well-spacing and well-casing programs or prescribe such modifications to the programs as he determines necessary for proper development, giving consideration to such factors as: (a) Topographic characteristics of the area; (b) hydrologic, geologic and reservoir characteristics of the field; (c) the number of wells that can be economically drilled to provide the necessary volume of geothermal resources for the intended use; (d) protection of correlative rights; (e) minimizing well interference; (f) unreasonable interference with multiple use of lands; and (g) protection of the environment.

§ 270.16 Values and payment for losses.

The Supervisor shall determine the value of production accruing to the lessor where there is loss through waste or failure to drill and produce protection wells on the lease, and the compensation due to the lessor as reimbursement for such loss. Payment for such losses will be paid when billed.

§ 270.17 Suspension of operations and production.

(a) On receipt of an application filed in accordance with 43 CFR 3205.3–8 for suspension of operations or production, or both, under a producing geothermal lease (or for relief from any drilling or producing requirements of such a lease), the Supervisor may, if he deems the suspension or relief warranted, approve the application.

(b) In the interest of conservation, the Supervisor may, on his own motion, suspend operations or production, or both, on any geothermal lease.

(c) Where operations or production, or both, under a lease, have been suspended, the Supervisor may approve resumption of operations or production either on his own motion or upon written request by the lessee or his agent.

(d) Whenever it appears from facts adduced by or furnished to the Supervisor that the interest of the lessor requires additional drilling or producing operations, he may, by written notice, order the beginning or resumption of such operations.

(e) Any action of the Supervisor under this Section shall be subject to the right of appeal under § 270.90.

(f) See 43 CFR 3205.3–7 and 3205.3–8 for regulations concerning requests to waive, suspend, or reduce payments of rental or royalty, and extensions of leases on which operations or production have been suspended.

REQUIREMENTS FOR LESSEES (INCLUDING OPERATORS)

§ 270.30 Lease terms, regulations, waste, damage, and safety.

(a) The lessee shall comply with the lease terms, lease stipulations, applicable laws and regulations and any amendments thereof, GRO orders, and other written or oral orders of the Supervisor. All oral orders (to be confirmed in writing as provided in § 270.11) are effective when issued unless otherwise specified.

(b) The lessee shall take all reasonable precautions to prevent: (1) Waste; (2) damage to any natural resource including trees and other vegetation, fish and wildlife and their habitat; (3) injury or damage to persons, real or personal property; and (4) any environmental pollution or damage.

§ 270.31 Designation of operator or agent.

In all cases where operations are not conducted by the lessee but are to be conducted under authority of an unapproved operating agreement, assignment

or other arrangement, a "designation of operator" shall be submitted to the Supervisor, in a manner and form approved by him, prior to commencement of operations. Such a designation will be accepted as authority of the operator or his local representative to act for the lessee and to sign any papers or reports required under the regulations in this part. All changes of address and any termination of the authority of the operator shall be immediately reported, in writing, to the Supervisor.

§ 270.32 Local agent.

When required by the Supervisor, the lessee shall designate a local representative empowered to receive notices and comply with orders of the Supervisor issued pursuant to the regulations in this part.

§ 270.33 Drilling and producing obligations.

(a) The lessee shall diligently drill and produce such wells as are necessary to protect the lessor from loss by reason of production on other properties, or in lieu thereof, with the consent of the Supervisor, shall pay a sum determined by the Supervisor as adequate to compensate the lessor for failure to drill and produce any such well.

(b) The lessee shall promptly drill and produce such other wells as the Supervisor may require in order that the lease be developed and produced in accordance with good operating practices. (See 43 CFR Part 3234.)

§ 270.34 Plan of operation.

Prior to commencing any operations on the lease, the lessee shall submit and obtain the approval of the Supervisor and the appropriate land management agency of a plan of operation for the area. Such plan shall include:

(a) the proposed location of each well including a layout showing the position of the mud tanks, reserve pits, cooling towers, pipe racks, etc.;

(b) existing and planned access and lateral roads;

(c) location and source of water supply and road building material;

(d) location of camp sites, air-strips, and other supporting facilities;

(e) methods for disposing of waste material; and

(f) all pertinent information or data which the Supervisor may require to support the plan of operations for the utilization of geothermal resources and the protection of the environment.

§ 270.35 Subsequent well operations.

After completion of all operations authorized under any previously approved notice or plan, the lessee shall not begin to redrill, repair, deepen, plug back, shoot, or plug and abandon any well, make casing tests, alter the casing or liner, stimulate production, change the method of recovering production, or use any formation or well for brine or fluid injection until he has submitted to the Supervisor in writing a new plan of operations and has received written approval from him. However, in an emergency a lessee may take action to prevent damage without receiving prior approval from the Supervisor, but in such cases the lessee shall report his action to the Supervisor as soon as possible.

§ 270.36 Well designations.

The lessee shall mark each derrick upon commencement of drilling operations and each producing or suspended well in a conspicuous place with his name or the name of the operator, the serial number of the lease, the number and location of the well. Whenever possible, the well location shall be described by section or tract, township, range, and by quarter-quarter section or lot. The lessee shall take all necessary means and precautions to preserve these markings.

§ 270.37 Well records.

(a) The lessee shall keep for each well at his field headquarters or at other locations conveniently available to the Supervisor, accurate and complete records of all well operations including production, drilling, logging, directional well surveys, casing, perforation, safety devices, redrilling, deepening, repairing, cementing, alterations to casing, plugging, and abandoning. The records shall contain a description of any unusual malfunction, condition or problem; all the formations penetrated; the content and character of mineral deposits and water in each formation; thermal gradients, temperatures, pressures, analyses of geothermal waters, the kind, weight, size, grade, and setting depth of casing; and any other pertinent information.

(b) The lessee shall, within 30 days after completion of any well, transmit to the Supervisor copies of the records of all operations in a form prescribed by the Supervisor.

(c) Upon request of the Supervisor, the lessee will furnish (1) legible, exact copies of service company reports on cementing, perforating, acidizing, analyses of cores, electrical, and temperature logs, chemical analyses of steam and waters, or other similar services; (2) other reports and records of operations in the manner and form prescribed by the Supervisor.

§ 270.38 Samples, tests, and surveys.

(a) The lessee, when required by the Supervisor, will make adequate sampling, tests and/or surveys using acceptable techniques, to determine the presence, quantity, quality, and potential of geothermal resources, mineral deposits, or water; the amount and direction of deviation of any well from the vertical; and/or formation temperatures and pressures, casing, tubing, or other pressures and such other facts as the Supervisor may require. Such tests or surveys shall be made without cost to the lessor.

(b) The lessee shall, without cost to the lessor, take such formation samples or cores to determine the identity and character of any formation as are required and prescribed by the Supervisor.

§ 270.39 Directional survey.

The Supervisor may require an angular deviation and directional survey to be made of the finished hole of each directionally drilled well. The survey shall be made at the risk and expense of the lessee unless requested by an offset lessee, and then, at the risk and expense of the offset lessee. A copy of the survey shall be furnished the Supervisor.

§ 270.40 Well control.

The lessee or operator shall: (a) Take all necessary precautions to keep all wells under control at all times; (b) utilize trained and competent personnel; (c) utilize properly maintained equipment and materials; and (d) use operating practices which insure the safety of life and property. The selection of the types and weights of drilling fluids and provisions for controlling fluid temperatures, blowout preventers, and other surface control equipment and materials, casing and cementing programs, etc., to be used shall be based on sound engineering principles and shall take into account apparent geothermal gradients, depths and pressures of the various formations to be penetrated and other pertinent geologic and engineering data and information about the area.

§ 270.41 Pollution.

The lessee shall comply with all Federal and State standards with respect to the control of all forms of air, land, water, and noise pollution, including, but not limited to, the control of erosion and the disposal of liquid, solid, and gaseous wastes. The Supervisor may, in his discretion, establish additional and more stringent standards, and, if he does so, the lessee shall comply with those standards. Plans for disposal of well effluents must take into account effects on surface and subsurface waters, plants, fish and wildlife and their habitats, atmosphere, or any other effects which may cause or contribute to pollution, and such plans must be approved by the Supervisor before action is taken under them.

§ 270.42 Noise abatement.

The lessee shall minimize noise during exploration, development and production activities. Welfare of the operating personnel and the public must not be affected as a consequence of the noise created by the expanding gases. The method and degree of noise abatement shall be as approved by the Supervisor.

§ 270.43 Land subsidence and seismic activity.

In the event subsidence or seismic activity results from the production of geothermal resources, as determined by monitoring activities by the lessee or a government body, the lessee shall take such action as required by the lease or by the Supervisor.

§ 270.44 Pits and sumps.

The lessee shall provide and use pits and sumps of adequate capacity and design to retain all materials and fluids necessary to drilling, production, or other operations unless otherwise specified by the Supervisor. In no event shall the con-

tents of a pit or sump be allowed to: (a) Contaminate streams, artificial canals or waterways, ground waters, lakes or rivers; (b) adversely affect environment, persons, plants, fish and wildlife and their habitats; or (c) damage the aesthetic values of the property or adjacent properties. When no longer needed, pits and sumps are to be filled and covered and the premises restored to a near natural state, as prescribed by the Supervisor.

§ 270.45 Well abandonment.

The lessee shall promptly plug and abandon any well on the leased land that is not used or useful. No well shall be abandoned until its lack of capacity for further profitable production of geothermal resources has been demonstrated to the satisfaction of the Supervisor. Before abandoning a producible well, the lessee shall submit to the Supervisor a statement of reasons for abandonment and his detailed plans for carrying on the necessary work. A producible well may be abandoned only after receipt of written approval by the Supervisor. No well shall be plugged and abandoned until the manner and method of plugging have been approved or prescribed by the Supervisor. Equipment shall be removed, and premises at the well site shall be restored as near as reasonably possible to its original condition immediately after plugging operations are completed on any well except as otherwise authorized by the Supervisor. Drilling equipment shall not be removed from any suspended drilling well without taking adequate measures to close the well and protect the subsurface resources.

§ 270.46 Accidents.

The lessee shall take all reasonable precautions to prevent accidents and shall notify the Supervisor within 24 hours of all accidents on the leased land, and shall submit a full report thereon within 15 days.

§ 270.47 Workmanlike operations.

The lessee shall carry on all operations and maintain the property at all times in a workmanlike manner, having due regard for the conservation of the property and the environment and for the health and safety of employees. The lessee shall remove from the property or store, in an orderly manner, all scrap or other materials not in use.

§ 270.48 Departure from orders.

The Supervisor may prescribe or approve either in writing or orally with prompt written confirmation, waivers or prompt written confirmation, variances from the requirements of GRO orders and other orders issued pursuant to these regulations, when such departures are necessary for the proper control of a well, conservation of natural resources, protection of human health and safety, property, or the environment.

§ 270.49 Sales contracts.

The lessee shall file with the Supervisor within 30 days after the effective date of the sales contract a copy of any contract for the disposal of geothermal resources from the lease.

§ 270.50 Royalty payments.

The lessee shall pay all royalties as due under the terms of the lease. Payments of royalties are due not later than the last day of the month following the month in which the resource is sold or utilized, and shall be by check, bank draft, or money order, drawn to the order of the United States Geological Survey.

MEASUREMENT OF PRODUCTION AND COMPUTATION OF ROYALTIES

§ 270.60 Measurement of geothermal resources.

The lessee shall measure or gauge all production in accordance with methods approved by the Supervisor. The quantity and quality of all production shall be determined in accordance with the standard practices, procedures, and specifications generally used in industry. All measuring equipment shall be tested periodically and, if found defective, the Supervisor will determine the quantity and quality of production from the best evidence available.

§ 270.61 Determination of content of byproducts.

The lessee shall periodically furnish the Supervisor the results of periodic tests showing the content of byproducts in the produced geothermal fluid and gases. Such tests shall be taken as specified by the Supervisor and by the method of testing approved by him.

§ 270.62 Value of geothermal production for computing royalties.

(a) The value of geothermal production from the leased premises for the purpose of computing royalties shall be the reasonable value of the energy and the byproducts attributable to the lease as determined by the Supervisor. In determining the reasonable value of the energy and the byproducts the Supervisor shall consider:

(1) The highest price paid for a majority of the production of like quality in the same field or area;

(2) The total consideration accruing to the lessee from any disposition of the geothermal production;

(3) The value of the geothermal production used by the lessee;

(4) The value and cost of alternate available energy sources and byproducts;

(5) The cost of exploration and production, exclusive of taxes;

(6) The economic value of the resource in terms of its ultimate utilization;

(7) Production agreements between producer and purchaser; and

(8) Any other matters which he may consider relevant.

(b) Under no circumstances shall the value of any geothermal production for the purposes of computing royalties be less than:

(1) The total consideration accruing to the lessee from the sale thereof in cases where geothermal resources are sold by the lessee to another party;

(2) That amount which is the value of the end product attributable to the geothermal resource produced from a particular lease where geothermal resources are not sold by the lessee before being utilized, but are instead directly used in manufacturing, power production, or other industrial activity; or

(3) When a part of the resource only is utilized by the lessee and the remainder sold, the sum of the value of the end product attributable to the geothermal resource and the sales price received for the geothermal resources

§ 270.63 Computation of royalties.

(a) The value of geothermal production from a particular lease as determined pursuant to § 270.62 hereof, shall be apportioned between geothermal steam, heat, and other forms of energy and the byproducts.

(b) The royalties payable shall be the sum of (1) the amount resulting from the multiplication of the value attributable to the geothermal steam, heat, and other forms of energy by the royalty rate set for such forms of geothermal energy in the lease and (2) the amount resulting from the multiplication of the value attributable to byproducts by the royalty rate for byproducts set in the lease.

§ 270.64 Commingling production.

The supervisor may authorize a lessee to commingle production from wells on his lease with production from other leases held by him or by other lessees subjects to such conditions as he may prescribe.

REPORTS TO BE MADE BY ALL LESSEES (INCLUDING OPERATORS)

§ 270.70 General requirements.

Information required to be submitted in accordance with the regulations in this part shall be furnished as directed by the Supervisor. Copies of forms can be obtained from the Supervisor and must be filed with that official within the time limit prescribed.

§ 270.71 Application for permit to drill, redrill, deepen, or plug-back.

(a) A permit to drill, redrill, deepen, or plug-back a well on Federal lands must be obtained from the Supervisor before the work is begun. The application for the permit, which shall be filed in triplicate with the Supervisor, shall state the location of the well in feet, and direction from the nearest section or tract lines as shown on the official plat of survey or protracted surveys; the altitude of the ground and derrick floor above sea level and how it was determined, and should be accompanied by a proposed plan of operations as required by § 270.34 of this part.

(b) The proposed drilling and casing plan shall be outlined in detail under the heading "Details of Work" in the applications referred to herein, and shall describe the type of tools and equipment to be used, the proposed depth to which the well will be drilled, the estimated

depths to the top of important markers, the estimated depths at which water, geothermal resources, or other mineral resources are expected, the proposed casing program (including the size and weight of casing), the depth at which each string is to be set, and the amount of cement and mud to be used, the drilling method and type of circulating media (water, mud, foam, air or combinations thereof), the type of blowout prevention equipment to be used, the proposed coring, logging, or other program (such as drilling time log and sample description) to be used to determine the formations penetrated and the proposed program for determining geothermal gradients and the sampling and analysis of geothermal resources.

(c) Each application shall be accompanied by a plat showing the surface and expected bottomhole locations and the distances from the nearest section or tract lines as shown on the official plat of survey or protracted surveys. The scale shall not be less than 2,000 feet to 1 inch.

(d) Each application should be accompanied by supporting structural and hydrologic information based on available geologic and geophysical data.

§ 270.72 Sundry notices and reports on wells.

(a) Any written notice of intention to do work or to change plans previously approved must be filed with the Supervisor in triplicate, unless otherwise directed, and must be approved by him before the work is begun. If, in case of emergency, any notice is given orally or by wire, and approval is obtained, the transaction shall be confirmed in writing. A subsequent report of the work performed must also be filed with the Supervisor.

(b) Casing test: Notice shall be given in advance to the Supervisor or his representative of the date and time when the operator expects to make a casing test. Later, by agreement, the exact time shall be fixed. In the event of casing failure during the test, the casing must be repaired or replaced or recemented as required by the Supervisor or his representative. The results of the test must be reported within 30 days after making a casing test. The report must describe the test completely and state the amount of mud and cement used, the lapse of time between running and cementing the casing and making the test, and the method of testing.

(c) Repairs or conditioning of well: Before the repairing or conditioning of a well, a notice setting forth in detail the plan of work must be filed with, and approved by, the Supervisor. A detailed report of the work accomplished and the methods employed, including all dates, and the results of such work must be filed within 30 days after completion of the repair work.

(d) Well stimulation: Before the lessee commences stimulation of a well by any means, a notice, setting forth in detail the plan of work, must be filed with and approved by the Supervisor. The notice shall name the type of stimulant and the amount to be used. A report showing the amount of stimulant used and the production rate before and after stimulation must be filed within 30 days from completion of the work.

(e) Altering casing in a well: Notice of intention to run a liner or to alter the casing by pulling or perforating by any means must be filed with and approved by the Supervisor before the work is started. This notice shall set forth in detail the plan of work. A report must be filed within 30 days after completion of the work stating exactly what was done and the results obtained.

(f) Notice of intention to abandon well: Before abandonment work is begun on any well, whether a drilling well, geothermal resources well, water well, or so-called dry hole, notice of intention to abandon shall be filed with, and approved by, the Supervisor. The notice must be accompanied by a complete log, in duplicate, of the well to date, provided the complete log has not been filed previously, and must give a detailed statement of the proposed work, including such information as kind, location, and length of plugs (by depths), plans for mudding, cementing, shooting, testing, and removing casing, and any other pertinent information.

(g) Subsequent report of abandonment: After a well is abandoned or plugged, a subsequent record of work done must be filed with the Supervisor. This report shall be filed separately within 30 days after the work is done. The report shall give a detailed account of the manner in which the abandonment or plugging work was carried out, including the nature and quantities of materials used in plugging and the location and extent (by depths) of the plugs of different materials; records of any tests or measurements made, and of the amount, size, and location (by depths) of casing left in the well; and a detailed statement of the volume of mud fluid used, and the pressure attained in mudding. If an attempt was made to part any casing, a complete report of the methods used and results obtained must be included.

§ 270.73 Log and history of well.

The lessee shall furnish in duplicate to the Supervisor, not later than 30 days after the completion of each well, a complete and accurate log and history, in chronological order, of all operations conducted on the well. A log shall be compiled for geologic information from cores or formations samples and duplicate copies of such log shall be filed. Duplicate copies of all electric logs, temperature surveys, water and steam analyses, hydrologic or heat flow tests, or direction surveys, if run, shall be furnished.

§ 270.74 Monthly report of operations.

A report of operations for each lease must be made for each calendar month, beginning with the month in which drilling operations are initiated. The report must be filed in duplicate with the Supervisor on or before the last day of the month following the month for which the report is filed unless an extension of time for the filing of the report is granted by the Supervisor. The report shall disclose accurately all operations conducted on each well during the month, the status of operations on the last day of the month, and a general summary of the status of operations on the leased lands. The report must be submitted each month until the lease is terminated or until omission of the report is authorized by the Supervisor. The report shall show for each calendar month:

(a) The lease serial number or the unit or communitization agreement number which shall be inserted in the upper right corner;

(b) Each well listed separately by number, and its location by 40-acre subdivision (quarter-quarter section or lot), section number, township, range, and meridian;

(c) The number of days each well was produced, whether steam or hot water or both were produced, and the number of days each input well was in operation, if any;

(d) The quantity of production and any byproducts obtained from each well, if any are recovered;

(e) The depth of each active or suspended well, and the name, character, and depth of each formation drilled during the month, the date and reason for every shutdown, the names and depths of important formation changes, the amount and size of any casing run since the last report, the dates and results of any tests conducted, and any other noteworthy information on operations not specifically provided for in the form.

(f) The footnote must be completely filled out as required by the Supervisor. If no sales were made during the calendar month, the report must so state.

§ 270.75 Monthly report of sales and royalty.

A report of sales and royalty for each productive lease must be filed each month once sales of production are made even though sales may be intermittent, unless otherwise authorized by the Supervisor. Total volumes of geothermal resources produced and sold, the value of production, and the royalty due the lessor must be shown. If byproducts are being recovered, the same requirement shall be applicable. This report is due on or before the last day of the month following the month in which production was obtained and sold or utilized, together with the royalties due the United States. Payment or royalty is to be made pursuant to § 270.49 unless otherwise authorized by the Supervisor.

§ 270.76 Forms or reports.

When forms or reports other than those referred to in the regulations in this part may be necessary, instructions for the filing of such forms or reports will be given by the Supervisor.

§ 270.77 Public inspection of records.

Geologic and geophysical interpretations, maps, and data required to be submitted under this part shall not be available for public inspection without the consent of the lessee so long as the lease remains in effect.

PROCEDURE IN CASE OF VIOLATION OF THE REGULATIONS OR LEASE TERMS

§ 270.80 Noncompliance with regulations or lease terms.

Whenever a lessee or anyone acting under his authority fails to comply with the provisions of the regulations or lease terms, the Supervisor shall give the lessee notice to remedy any defaults or violations. The Supervisor is authorized to shut down any operations which he determines are unsafe or are causing or can cause pollution. Failure by the lessee to perform or commence the necessary remedial action pursuant to the notice will result in a shut down of operations and may result in referral of the matter to the authorized officer of the Bureau of Land Management for action pursuant to 43 CFR 3245.3.

APPEALS

§ 270.90 Appeals.

(a) Any party to a case adversely affected by a final order or decision of an officer of the Conservation Division of the Geological Survey shall have a right to appeal to the Director, unless the order or decision was approved by the Secretary or the Director prior to promulgation.

(b) An appeal to the Director may be taken by filing a notice of appeal in the office of the official who issued the order or decision within 30 days from service of the order or decision. The notice of appeal shall incorporate, or be accompanied by, such written showing and argument on the facts and the law as the appellant may deem adequate to justify reversal or modification of the order or decision. Within the same 30-day period, the appellant will be permitted to file in the office of the officer who issued the order or decision additional statements of reasons and written arguments or briefs. The officer with whom the appeal is filed shall transmit the appeal and accompanying papers to the Director with a full report and his recommendation on the appeal. The Director will review the record and render a decision in the case.

(c) Oral argument in any case pending before the Director will be allowed on motion in the discretion of such officer and at a time to be fixed by him.

(d) With the exception of the time fixed for filing a notice of appeal, the time for filing any document in connection with an appeal may be extended by the Director. A request for an extension of time must be filed within the time allowed for filing of the document and must be filed in the same office in which the document in connection with which the extension is requested must be filed.

(e) Any party to a case adversely affected by a decision of the Director under this part shall have a right of appeal to the Board of Land Appeals in the Office of Hearings and Appeals, Office of the Secretary, in accordance with the procedures provided in 43 CFR Part 4, Department Hearings and Appeals Procedures.

PART 271—GEOTHERMAL RESOURCES UNIT PLAN REGULATIONS (INCLUDING SUGGESTED FORMS)

GENERAL PROVISIONS

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AUTHORITY: The provisions of this Part 271 issued under section 18 of the Geothermal Steam Act of 1970 (84 Stat. 1566) (see 43 CFR Subpart 3244).

§ 271.1 Introduction.

The regulations in this part prescribe the procedure to be followed and the requirements to be met by holders of Federal geothermal leases (see § 271.2d) and their representatives who wish to unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan for the development of any geothermal resources pool, field, or like area, or any part thereof. Such agreements may be initiated by lessees, or where in the interest of conserving natural resources they are deemed necessary they may be required by the Director.

§ 271.2 Definitions.

The following terms, as used in this part or in any agreement approved under the regulations in this part, shall have the meanings here indicated unless otherwise defined in such agreement:

(a) *Unit agreement.* An agreement or plan of development and operation for the production and utilization of separately owned interests in the geothermal resources made subject thereto as a single consolidated unit without regard to separate ownerships and which provides for the allocation of costs and benefits on a basis defined in the agreement or plan.

(b) *Cooperative agreement.* An agreement or plan of development and operations for the production and utilization of geothermal resources made subject thereto in which separate ownership units are independently operated without allocation of production.

(c) *Agreement.* For convenience, the term "agreement" as used in the regulations in this part refers to either a unit or a cooperative agreement as defined in paragraphs (a) and (b) of this section unless otherwise indicated.

(d *Geothermal lease.* A lease issued under the act of December 24, 1970 (84 Stat. 1566), pursuant to the leasing regulations contained in 43 CFR Part 3200, and, unless the context indicates otherwise, "lease" means a geothermal lease.

(e) *Unit area.* The area described in a unit agreement as constituting the land logically subject to development under such agreement.

(f) *Unitized land.* The part of a unit area committed to a unit agreement.

(g) *Unitized substances.* Deposits of geothermal resources recovered from unitized land by operation under and pursuant to a unit agreement.

(h) *Unit operator.* The person, association, partnership, corporation, or other business entity designated under a unit agreement to conduct operations on unitized land as specified in such agreement.

(i) *Participating area.* That part of the Unit Area which is deemed to be productive from a horizon or deposit and to which production would be allocated in the manner described in the unit agreement assuming that lands are committed to the unit agreement.

(j) *Working interest.* The interest held in geothermal resources or in lands containing the same by virtue of a lease, operating agreement, fee title, or otherwise, under which, except as otherwise provided in a unit or cooperative agreement, the owner of such interest is vested with the right to explore for, develop, produce, and utilize such resources. The right delegated to the unit operator as such by the unit agreement is not to be regarded as a working interest.

(k) *Secretary.* The Secretary of the Interior or any person duly authorized to exercise powers vested in that officer.

(l) *Director.* The Director of the U.S. Geological Survey.

(m) *Supervisor.* A representative of the Secretary, subject to the direction and supervisory authority of the Director, the Chief, Conservation Division, Geological Survey, and the appropriate Regional Conservation Manager, Conservation Division, Geological Survey, authorized and empowered to regulate operations and to perform other duties prescribed in the regulations in this part or any subordinate of such representative acting under his direction.

§ 271.3 Designation of area.

An application for designation of an area as logically subject to development and/or operation under a unit or cooperative agreement may be filed, in triplicate, by any proponent of such an agreement through the Supervisor. Each copy of the application shall be accompanied by a map or diagram on a scale of not less than 1 inch to 1 mile, outlining the area sought to be designated under this section. The Federal, State, and privately owned land should be indicated on said map by distinctive symbols or colors and Federal geothermal leases and lease ap-

plications should be dentified by serial number. Geological information, including the results of geophysical surveys, and such other information as may tend to show that unitization is necessary and advisable in the public interest should be furnished in triplicate. Geological and geophysical information and data so furnished will not be available for public inspection, as provided by 5 U.S.C. section 552(b), without the consent of the proponent. The application and supporting data will be considered by the Director and the applicant will be informed of the decision reached. The designation of an area, pursuant to an application filed under this section, shall not create an exclusive right to submit an executed agreement for such area, nor preclude the inclusion of such area or any part thereof in another unit area.

§ 271.4 Preliminary consideration of agreements.

The form of unit agreement set forth in § 271.12 is acceptable for use in unproved areas. The use of this form is not mandatory, but any proposed departure therefrom should be submitted with the application submitted under § 271.3 for preliminary consideration and for such revision as may be deemed necessary. In areas proposed for unitization in which a discovery of geothermal resources has been made, or where a cooperative agreement is contemplated, the proposed agreement should be submitted with the application submitted under § 271.3 for preliminary consideration and for such revision as may be deemed necessary. The proposed form of agreement should be submitted in triplicate and should be plainly marked to identify the proposed variances from the form of agreement set forth in § 271.12.

§ 271.5 State land.

Where State-owned land is to be included in the unit, approval of the agreement by appropriate State officials should be obtained prior to its submission to the Department for approval of the executed agreement. When authorized by the laws of the State in which the unitized land is situated, provisions may be made in the agreement accepting State law to the extent that they are applicable to non-Federal unitized land.

§ 271.6 Qualifications of unit operator.

A unit operator must qualify as to citizenship in the same manner as those holding interests in geothermal leases issued under the Geothermal Steam Act of 1970. The unit operator may be an owner of a working interest in the unit area or such other party as may be selected by the owners of working interests and approved by the Supervisor. The unit operator shall execute an acceptance of the duties and obligations imposed by the agreement. No designation of, or change in, a unit operator will become effective unless and until approved by the Supervisor, and no such approval will be granted unless the unit operator is deemed qualified to fulfill the duties and obligations prescribed in the agreement.

§ 271.7 Parties to unit or cooperative agreement.

The owners of any rights, title, or interest in the geothermal resources deposits to be developed and operated under an agreement can be regarded as proper parties to a proposed agreement. All such owners must be invited to join as parties to the agreement. If any owner fails or refuses to join the agreement, the proponent of the agreement should declare this to the Supervisor and should submit evidence of efforts made to obtain joinder of such owner and the reasons for nonjoinder.

§ 271.8 Approval of an executed unit or cooperative agreement.

(a) A duly executed unit or cooperative agreement will be approved by the Secretary, or his duly authorized representative, upon a determination that such agreement is necessary or advisable in the public interest and is for the purpose of properly conserving the natural resources. Such approval will be incorporated in a certificate appended to the agreement. No such agreement will be approved unless at least one of the parties is a holder of a Federal lease embracing lands being committed to the agreement and unless the parties signatory to the agreement hold sufficient interests in the area to give effective control of operations therein.

(b) Where a duly executed agreement is submitted for Departmental approval, a minimum of six signed counterparts should be filed. The same number of counterparts should be filed for documents supplementing, modifying, or amending an agreement, including change of operator, designation of new operator, and notice of surrender, relinquishment, or termination.

(c) The address of each signatory party to the agreement should be inserted below the party's signature. Each signature should be attested by at least one witness, if not notarized. Corporate or other signatures made in a representative capacity must be accompanied by evidence of the authority of the signatories to act unless such evidence is already a matter of record in the United States Geological Survey. (The parties may execute any number of counterparts of the agreement with the same force and effect as if all parties signed the same document, or may execute a ratification or consent in a separate instrument with like force and effect.).

(d) Any modification of an approved agreement will require approval of the Secretary or his duly authorized representative under procedures similar to those cited in paragraph (a) of this section.

§ 271.9 Filing of papers and number of counterparts.

(a) All proposals and supporting papers, instruments, and documents submitted under this part should be filed with the Supervisor, unless otherwise provided in this part or otherwise instructed by the Director.

(b) Plans of development and operation, plans of further development and operation, and proposed participating areas and revisions thereof should be submitted in quadruplicate.

(c) Each application for approval of a participating area, or revision thereof, should be accompanied by three copies of a substantiating geologic and engineering report, structure contour map or maps, cross-section or other pertinent data.

(d) Other instruments or documents submitted for approval should be submitted for approval in sufficient number to permit the approving official to return at least one approved counterpart.

§ 271.10 Bonds.

In lieu of separate bonds required for each Federal lease committed to a unit agreement, the unit operator may furnish and maintain a collective corporate surety bond or a personal bond conditioned upon faithful performance of the duties and obligations of the agreement and the terms of the leases subject thereto. Personal bonds shall be accompanied by a deposit of negotiable Federal securities in a sum equal at their par value to the amount of the bond and by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the obligations assumed. The liability under the bond shall be for such amount as the Supervisor shall determine to be adequate to protect the interests of the United States. Additional bond coverage may be required whenever deemed necessary by the Supervisor. The bond must be filed with and accepted by the Bureau of Land Management before operations will be approved. A form of corporate surety bond is set forth in § 271.15. In case of changes of unit operator, a new bond must be filed or a consent of surety to the change in principal under the existing bond must be furnished.

§ 271.11 Appeals.

Appeals may be taken in the manner provided in § 270.90 of this chapter from any decision or order issued under the regulations in this part, unless such decision or order was approved by the Secretary prior to promulgation.

§ 271.12 Form of unit agreement for unproved areas.

UNIT AGREEMENT FOR THE DEVELOPMENT AND OPERATIONS OF THE _____
UNIT AREA, COUNTY OF _____
STATE OF _____ NO. _____
UNIT AGREEMENT FOR THE DEVELOPMENT AND OPERATION OF THE _____ UNIT AREA
COUNTY OF _____
STATE OF _____

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---------- UNIT AGREEMENT
---------- COUNTY ----------

This Agreement entered into as of the ------ day of ----------, 19--, by and between the parties subscribing, ratifying, or consenting hereto, and herein referred to as the "parties hereto".

WITNESSETH: Whereas the parties hereto are the owners of working, royalty, or other geothermal resources interests in land subject to this Agreement; and

Whereas the Geothermal Steam Act of 1970 (84 Stat. 1566), hereinafter referred to as the "Act", authorizes Federal lessees and their representatives to unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of any geothermal resources pool, field, or like area, or any part thereof, for the purpose of more properly conserving the natural resources thereof, whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest; and

Whereas the parties hereto hold sufficient interest in the ---------- Unit Area covering the land herein described to effectively control operations therein; and

Whereas, it is the purpose of the parties hereto to conserve natural resources, prevent waste, and secure other benefits obtainable through development and operations of the area subject to this Agreement under the terms, conditions, and limitations herein set forth;

Now, therefore, in consideration of the premises and the promises herein contained, the parties hereto commit to this agreement their respective interests in the below-defined Unit Area, and agree severally among themselves as follows:

ARTICLE I—ENABLING ACT AND REGULATIONS

1.1 The Act and all valid pertinent regulations, including operating and unit plan regulations, heretofore or hereafter issued thereunder are accepted and made a part of this agreement as to Federal lands.

1.2 As to non-Federal lands, the geothermal resources operating regulations in effect as of the effective date hereof governing drilling and producing operations, not inconsistent with the laws of the State in which the non-Federal land is located, are hereby accepted and made a part of this agreement.

ARTICLE II—DEFINITIONS

2.1 The following terms shall have the meanings here indicated:

(a) *Geothermal lease*. A lease issued under the act of December 24, 1970 (84 Stat. 1566), pursuant to the leasing regulations contained in 43 CFR Group 3200 and, unless the context indicates otherwise, "lease" shall mean a geothermal lease.

(b) *Unit area*. The area described in Article III of this Agreement.

(c) *Unit Operator*. The person, association, partnership, corporation, or other business entity designated under this Agreement to conduct operations on Unitized Land as specified herein.

(d) *Participating area*. That part of the Unit Area which is deemed to be productive from a horizon or deposit and to which production would be allocated in the manner described in the unit agreement assuming that all lands are committed to the unit agreement.

(e) *Working interest*. The interest held in geothermal resources or in lands containing the same by virtue of a lease, operating agreement, fee title, or otherwise, under which, except as otherwise provided in this Agreement, the owner of such interest is vested with the right to explore for, develop, produce and utilize such resources. The right delegated to the Unit Operator as such by this Agreement is not to be regarded as a Working Interest.

(f) *Secretary*. The Secretary of the Interior or any person duly authorized to exercise powers vested in that officer.

(g) *Director*. The Director of the U.S. Geological Survey.

(h) *Supervisor*. A representative of the Secretary, subject to the direction and supervisory authority of the Director, the Chief, Conservation Division, Geological Survey, and the appropriate Regional Conservation Manager, Conservation Division, Geological Survey, authorized and empowered to regulate operations and to perform other duties prescribed in the regulations in this part or any subordinate of such representative acting under his direction.

ARTICLE III—UNIT AREA AND EXHIBITS

3.1 The area specified on the map attached hereto marked "Exhibit A" is hereby designated and recognized as constituting the Unit Area, containing ---------- acres, more or less.

The above-described Unit Area shall when practicable be expanded to include therein any additional lands or shall be contracted to exclude lands whenever such expansion or contraction is deemed to be necessary or advisable to conform with the purposes of this Agreement.

3.2 Exhibit A attached hereto and made a part hereof is a map showing the boundary of the Unit Area, the boundaries and identity of tracts and leases in said area to the extent known to the Unit Operator.

3.3 Exhibit B attached hereto and made a part hereof is a schedule showing to the extent known to the Unit Operator the acreage, percentage, and kind of ownership of geothermal resources interests in all lands in the Unit Area.

3.4 Exhibits A and B shall be revised by the Unit Operator whenever changes in the Unit Area render such revision necessary, or when requested by the Supervisor, and not less than five copies of the revised Exhibits shall be filed with the Supervisor.

ARTICLE IV—CONTRACTION AND EXPANSION OF UNIT AREA

4.1 Unless otherwise specified herein, the expansion and/or contraction of the Unit Area contemplated in Article 3.1 hereof shall be effected in the following manner:

(a) Unit Operator either on demand of the Director or on its own motion and after prior concurrence by the Director, shall prepare a notice of proposed expansion or contraction describing the contemplated changes in the boundaries of the Unit Area, the reasons therefore, and the proposed effective date thereof, preferably the first day of a month subsequent to the date of notice.

(b) Said notice shall be delivered to the Supervisor, and copies thereof mailed to the last known address of each Working Interest Owner, Lessee, and Lessor whose interests are affected, advising that 30 days will be allowed for submission to the Unit Operator of any objections.

(c) Upon expiration of the 30-day period provided in the preceding item (b) hereof, Unit Operator shall file with the Supervisor evidence of mailing of the notice of expansion or contraction and a copy of any objections thereto which have been filed with the Unit Operator, together with an application in sufficient number, for approval of such expansion or contraction and with appropriate joinders.

(d) After due consideration of all pertinent information, the expansion or contraction shall, upon approval by the Supervisor, become effective as of the date prescribed in the notice thereof.

4.2 Unitized Leases, insofar as they cover any lands which are excluded from the Unit Area under any of the provisions of this Article IV may be maintained and continued in force and effect in accordance with the terms, provisions, and conditions contained in the Act, and the lease or leases and amendments thereto, except that operations and/or production under this Unit Agreement shall not serve to maintain or continue the excluded portion of any lease.

4.3 All legal subdivisions of unitized lands (i.e., 40 acres by Governmental survey or its nearest lot or tract equivalent in instances of irregular surveys), no part of which is entitled to be within a Participating Area on the fifth anniversary of the effective date of the initial Participating Area established under this Agreement, shall be eliminated automatically from this Agreement effective as of said fifth anniversary and such lands shall no longer be a part of the Unit Area and shall no longer be subject to this Agreement unless diligent drilling operations are in progress on an exploratory well on said fifth anniversary, in which event such lands shall not be eliminated from the Unit Area for as long as exploratory drilling operations are continued diligently with not more than four (4) months time elapsing between the completion of one exploratory well and the commencement of the next exploratory well.

4.4 An exploratory well, for the purposes of this Article IV is defined as any well, regardless of surface location, projected for completion in a zone or deposit below any zone or deposit for which a Participating Area has been established and is in effect, or any well, regardless of surface location, projected for completion at a subsurface location under Unitized Lands not entitled to be within a Participating Area.

4.5 In the event an exploratory well is completed during the four (4) months immediately preceding the fifth anniversary of the initial Participating Area established under this Agreement, lands not entitled to be within a Participating Area shall not be eliminated from this Agreement on said fifth anniversary, provided the drilling of another exploratory well is commenced under an approved Plan of Operation within four (4) months after the completion of said well. In such event, the land not entitled to be in participation shall not be eliminated from the Unit Area so long as exploratory drilling

operations are continued diligently with not more than four (4) months time elapsing between the completion of one exploratory well and the commencement of the next exploratory well.

4.6 With prior approval of the Supervisor, a period of time in excess of four (4) months may be allowed to elapse between the completion of one well and the commencement of the next well without the automatic elimination of nonparticipating acreage.

4.7 Unitized lands proved productive by drilling operations which serve to delay automatic elimination of lands under this Article IV shall be incorporated into a Participating Area (or Areas) in the same manner as such lands would have been incorporated in such areas had such lands been proven productive during the year preceding said fifth anniversary.

4.8 In the event nonparticipating lands are retained under this Agreement after the fifth anniversary of the initial Participating Area as a result of exploratory drilling operations, all legal subdivisions of unitized land (i.e., 40 acres by Government survey or its nearest lot or tract equivalent in instances of irregular Surveys), no part of which is entitled to be within a Participating Area shall be eliminated automatically as of the 121 day, or such later date as may be established by the Supervisor, following the completion of the last well recognized as delaying such automatic elimination beyond the fifth anniversary of the initial Participating Area established under this Agreement.

ARTICLE V—UNITIZED LAND AND UNITIZED SUBSTANCES

5.1 All land committed to this Agreement shall constitute land referred to herein as "Unitized Land". All geothermal resources in and produced from any and all formations of the Unitized Land are unitized under the terms of this agreement and herein are called "Unitized Substances."

ARTICLE VI—UNIT OPERATOR

6.1 _____ is hereby designated as Unit Operator and by signature hereto as Unit Operator agrees and consents to accept the duties and obligations of Unit Operator for the discovery, development, production, distribution and utilization of Unitized Substances as herein provided. Whenever reference is made herein to the Unit Operator, such reference means the Unit Operator acting in that capacity and not as an owner of interest in Unitized Substances, and the term "Working Interest Owner" when used herein shall include or refer to Unit Operator as the owner of a Working Interest when such an interest is owned by it.

ARTICLE VII—RESIGNATION OR REMOVAL OF UNIT OPERATOR

7.1 Prior to the establishment of a Participating Area, hereunder, Unit Operator shall have the right to resign. Such resignation shall not become effective so as to release Unit Operator from the duties and obligations of Unit Operator or terminate Unit Operators rights, as such, for a period of six (6) months after notice of its intention to resign has been served by Unit Operator on all Working Interest Owners and the Supervisor, nor until all wells then drilled hereunder are placed in a satisfactory condition for suspension or abandonment whichever is required by the Supervisor, unless a new Unit Operator shall have been selected and approved and shall have taken over and assumed the duties and obligations of Unit Operator prior to the expiration of said period.

7.2 After the establishment of a Participating Area hereunder Unit Operator shall have the right to resign in the manner and subject to the limitations provided in 7.1 above.

7.3 The Unit Operator may, upon default or failure in the performance of its duties or obligations hereunder, be subject to removal by the same percentage vote of the owners of Working Interests as herein provided for the selection of a new Unit Operator. Such removal shall be effective upon notice thereof to the Supervisor.

7.4 The resignation or removal of Unit Operator under this Agreement shall not terminate its right, title, or interest as the owner of a Working Interest or other interest in Unitized Substances, but upon the resignation or removal of Unit Operator becoming effective, such Unit Operator shall deliver possession of all wells, equipment, material, and appurtenances used in conducting the unit operations to the new duly qualified successor Unit Operator or, if no such new unit operator is elected, to the common agent appointed to represent the Working Interest Owners in any action taken hereunder to be used for the purpose of conducting operations hereunder.

7.5 In all instances of resignation or removal, until a successor Unit Operator is selected and approved as hereinafter provided, the Working Interest Owners shall be jointly responsible for performance of the duties and obligations of Unit Operator, and shall not later than 30 days before such resignation or removal becomes effective appoint a common agent to represent them in any action to be taken hereunder.

7.6 The resignation of Unit Operator shall not release Unit Operator from any liability for any default by it hereunder occurring prior to the effective date of its resignation.

ARTICLE VIII—SUCCESSOR UNIT OPERATOR

8.1 If, prior to the establishment of a Participating Area hereunder, the Unit Operator shall resign as Operator, or shall be removed as provided in Article VII, a successor Unit Operator may be selected by vote of the owners of a majority of the Working Interests in Unitized Substances, based on their respective shares, on an acreage basis, in the Unitized Land.

8.2 If, after the establishment of a Participating Area hereunder, the Unit Operator shall resign as Unit Operator, or shall be removed as provided in Article VII, a successor Unit Operator may be selected by vote of the owners of a majority of the Working Interests in Unitized Substances, based on their respective shares, on a participating acreage basis. Provided, that, if a majority but less than 60 percent of the Working Interest in the Participating Lands is owned by the party to this agreement, a concurring vote of one or more additional Working Interest Owners owning 10 percent or more of the Working Interest in the participating land shall be required to select a new Unit Operator.

8.3 The selection of a successor Unit Operator shall not become effective until

(a) The Unit Operator so selected shall accept in writing the duties, obligations and responsibilities of the Unit Operator, and

(b) The selection shall have been approved by the Supervisor.

8.4 If no successor Unit Operator is selected and qualified as herein provided, the Director at his election may declare this Agreement terminated.

ARTICLE IX—ACCOUNTING PROVISIONS AND UNIT OPERATING AGREEMENT

9.1 Costs and expenses incurred by Unit Operator in conducting unit operations hereunder shall be paid and apportioned among and borne by the owners of Working Interests; all in accordance with the agreement or agreements entered into by and between the Unit Operator and the owners of Working Interests, whether one or more, separately or collectively.

9.2 Any agreement or agreements entered into between the Working Interest Owners and the Unit Operator as provided in this Article, whether one or more, are herein referred to as the "Unit Operating Agreement".

9.3 The Unit Operating Agreement shall provide the manner in which the Working Interest Owners shall be entitled to receive their respective share of the benefits accruing hereto in conformity with their underlying operating agreements, leases, or other contracts, and such other rights and obligations, as between Unit Operator and the Working Interest Owners.

9.4 Neither the Unit Operating Agreement nor any amendment thereto shall be deemed either to modify any of the terms and conditions of this Agreement or to relieve the Unit Operator of any right or obligation established under this Agreement.

9.5 In case of any inconsistency or conflict between this Agreement and the Unit Operating Agreement, this Agreement shall govern.

9.6 Three true copies of any Unit Operating Agreement executed pursuant to this Article IX shall be filed with the Supervisor prior to approval of this Agreement.

ARTICLE X—RIGHTS AND OBLIGATIONS OF UNIT OPERATOR

10.1 The right, privilege, and duty of exercising any and all rights of the parties hereto which are necessary or convenient for prospecting, producing, distributing or utilizing Unitized Substances are hereby delegated to and shall be exercised by the Unit Operator as provided in this Agreement in accordance with a Plan of Operations approved by the Supervisor.

10.2 Upon request by Unit Operator, acceptable evidence of title to geothermal resources interests in the Unitized Land shall be deposited with the Unit Operator, and together with this Agreement shall constitute and define the rights, privileges, and obligations of Unit Operator.

10.3 Nothing in this Agreement shall be construed to transfer title to any land or to any lease or operating agreement, it being understood that the Unit Operator, in its capacity as Unit Operator shall exercise the rights of possession and use vested in the parties hereto only for the purposes specified in this Agreement.

10.4 The Unit Operator shall take such measures as the Supervisor deems appropriate and adequate to prevent drainage of Unitized Substances from Unitized Land by wells on land not subject to this Agreement.

10.5 The Director is hereby vested with authority to alter or modify from time to time, in his discretion, the rate of prospecting and development and the quantity and rate of production under this Agreement.

ARTICLE XI—PLAN OF OPERATION

11.1 Concurrently with the submission of this Agreement for approval, Unit Operator shall submit an acceptable initial Plan of Operation. Said plan shall be as complete and adequate as the Supervisor may determine to be necessary for timely exploration and/or development and to insure proper protection of the environment and conservation of the natural resources of the Unit Area.

11.2 Prior to the expiration of the initial Plan of Operation, or any subsequent Plan of Operation, Unit Operator shall submit for approval of the Supervisor an acceptable subsequent Plan of Operation for the Unit Area which, when approved by the Supervisor, shall constitute the exploratory and/or development drilling and operating obligations of Unit Operators under this Agreement for the period specified therein.

11.3 Any plan of Operation submitted hereunder shall

(a) Specify the number and locations of any wells to be drilled and the proposed order and time for such drilling, and

(b) To the extent practicable, specify the operating practices regarded as necessary and advisable for proper conservation of natural resources and protection of the environment.

11.4 The Plan of Operation submitted concurrently with this Agreement for approval shall prescribe that within six (6) months after the effective date hereof, the Unit Operator shall begin to drill an adequate test well at a location approved by the Supervisor, unless on such effective date a well is being drilled conformably with the terms, hereof, and thereafter continue such drilling diligently until the _____ formation has been tested or until at a lesser depth unitized substances shall be discovered which can be produced in paying quantities (i.e., quantities sufficient to repay the costs of drilling, completing, and producing operations, with a reasonable profit) or the Unit Operator shall at any time establish to the satisfaction of the Supervisor that further drilling of said well would be unwarranted or impracticable, provided, however, that Unit Operator shall not in any event be required to drill said well to a depth in excess of _____ feet.

11.5 The initial Plan of Operation and/or subsequent Plans of Operation submitted under this article shall provide that the Unit Operator shall initiate a continuous drilling program providing for drilling of no less than one well at a time, and allowing no more than six (6) months time to elapse between completion of one well and the beginning of the next well, until a well capable of producing Unitized Substances in paying quantities is completed to the satisfaction of the Supervisor or until it is reasonably proved that the Unitized Land is incapable of producing Unitized Substances in paying quantities in the formations drilled under this Agreement.

11.6 When warranted by unforeseen circumstances, the Supervisor may grant a single extension of any or all of the critical dates for exploratory drilling operations cited in the initial or subsequent Plans of Operation. No such extension shall exceed a period of four (4) months for each well, required by the initial Plan of Operation.

11.7 Until there is actual production of Unitized Substances, the failure of Unit Operator to timely drill any of the wells provided for in Plans of Operation required under this Article XI or to timely submit an acceptable subsequent Plan of Operations, shall, after notice of default or notice of prospective default to Unit Operator by the Supervisor and after failure of Unit Operator to remedy any actual default within a reasonable time (as determined by the Supervisor), result in automatic termination of this Agreement effective as of the date of the default, as determined by the Supervisor.

11.8 Separate Plans of Operations may be submitted for separate productive zones, subject to the approval of the Supervisor. Also subject to the approval of the Supervisor, Plans of Operation shall be modified or supplemented when necessary to meet changes in conditions or to protect the interest of all parties to this Agreement.

ARTICLE XII—PARTICIPATING AREAS

12.1 Prior to the commencement of production of Unitized Substances, the Unit Operator shall submit for approval by the Supervisor a schedule (or schedules) of all land then regarded as reasonably proved to be productive from a pool or deposit discovered or developed; all lands in said schedule (or schedules), on approval of the Supervisor, will constitute a Participating Area (or Areas) effective as of the date production commences or the effective date of this Unit Agreement, whichever is later. Said schedule (or schedules) shall also set forth the percentage of Unitized Substances to be allocated, as herein provided, to each tract in the Participating Area (or Areas) so established and shall govern the allocation of production commencing with the effective date of the Participating Area.

12.2 A separate Participating Area shall be established for each separate pool or deposit of Unitized Substances or for any group thereof which is produced as a single pool or deposit and any two or more Participating Areas so established may be combined into one, on approval of the Supervisor. The effective date of any Participating Area established after the commencement of actual production of Unitized Substances shall be the first of the month in which is obtained the knowledge or information on which the establishment of said Participating Area is based, unless a more appropriate effective date is proposed by the Unit Operator and approved by the Supervisor.

12.3 Any Participating Area (or Areas) established under 12.1 or 12.2 above shall, subject to the approval of the Supervisor, be revised from time to time to include additional land then regarded as reasonably proved to be productive from the pool or deposit for which the Participating Area was established or to include lands necessary to unit operations, or to exclude land then regarded as reasonably proved not to be productive from the pool or deposit for which the Participating Area was established or to exclude land not necessary to unit operations and the schedule (or schedules) of allocation percentages shall be revised accordingly.

12.4 Subject to the limitation cited in 12.1 hereof, the effective date of any revision of a Participating Area established under Articles 12.1 or 12.2 shall be the first of the month in which is obtained the knowledge or information on which such revision is predicated, provided, however, that a more appropriate effective date may be used if justified by the Unit Operator and approved by the Supervisor.

12.5 No land shall be excluded from a Participating Area on account of depletion of the Unitized Substances, except that any Participating Area established under the provisions of this Article XII shall terminate automatically whenever all operations are abandoned in the pool or deposit for which the Participating Area was established.

12.6 Nothing herein contained shall be construed as requiring any retroactive adjustment for production obtained prior to the effective date of the revision of a Participating Area.

ARTICLE XIII—ALLOCATION OF UNITIZED SUBSTANCES

13.1 All Unitized Substances produced from a Participating Area, established under this Agreement, shall be deemed to be produced equally on an acreage basis from the several tracts of Unitized Land within the Participating Area established for such production.

13.2 For the purpose of determining any benefits accruing under this Agreement, each Tract of Unitized Land shall have allocated to it such percentage of said production as the number of acres in the Tract included in the Participating Area bears to the total number of acres of Unitized Land in said Participating Area.

13.3 Allocation of production hereunder for purposes other than for settlement of the royalty obligations of the respective Working Interest Owners, shall be on the basis prescribed in the Unit Operating Agreement whether in conformity with the basis of allocation set forth above or otherwise.

13.4 The Unitized Substances produced from a Participating Area shall be allocated as provided herein regardless of whether any wells are drilled on any particular part or tract of said Participating Area.

ARTICLE XIV—RELINQUISHMENT OF LEASES

14.1 Pursuant to the provisions of the Federal leases and 43 CFR 3245.1, a lessee of record shall, subject to the provisions of the Unit Operating Agreement, have the right to relinquish any of its interests in leases committed hereto, in whole or in part; provided, that no relinquishment shall be made of interests in land within a Participating Area without the prior approval of the Director.

14.2 A Working Interest Owner may exercise the right to surrender, when such right is vested in it by any non-Federal lease, sublease, or operating agreement, provided that each party who will or might acquire the Working Interest in such lease by such surrender or by forfeiture is bound by the terms of this Agreement, and further provided that no relinquishment shall be made of such land within a Participating Area without the prior written consent of the non-Federal Lessor.

14.3 If as the result of relinquishment, surrender, or forfeiture the Working Interests become vested in the fee owner or lessor of the Unitized Substances, such owner may:

(1) Accept those Working Interest rights and obligations subject to this Agreement and the Unit Operating Agreement; or

(2) Lease the portion of such land as is included in a Participating Area established hereunder, subject to this Agreement and the Unit Operating Agreement; and provide for the independent operation of any part of such land that is not then included within a Participating Area established hereunder.

14.4 If the fee owner or lessor of the Unitized Substances does not, (1) accept the Working Interest rights and obligations subject to this Agreement and the Unit Operating Agreement, or (2) lease such lands as provided in 14.3 above within six (6) months after the relinquished, surrendered, or forfeited Working Interest becomes vested in said fee owner or lessor, the Working Interest benefits and obligations accruing to such land under this Agreement and the Unit Operating Agreement shall be shared by the owners of the remaining unitized Working Interests in accordance with their respective Working Interest ownerships, and such owners of Working Interests shall compensate the fee owner or lessor of Unitized Substances in such lands by paying sums equal to the rentals, minimum royalties, and royalties applicable to such lands under the lease or leases in effect when the Working Interests were relinquished, surrendered, or forfeited.

14.5 Subject to the provisions of 14.4 above, an appropriate accounting and settlement shall be made for all benefits accruing to or payments and expenditures made or incurred on behalf of any surrendered or forfeited Working Interest subsequent to the date of surrender or forfeiture, and payment of any moneys found to be owing by such an accounting shall be made as between the parties within thirty (30) days.

14.6 In the event no Unit Operating Agreement is in existence and a mutually acceptable agreement cannot be consummated between the proper parties, the Supervisor may prescribe such reasonable and equitable conditions of agreement as he deems warranted under the circumstances.

14.7 The exercise of any right vested in a Working Interest Owner to reassign such Working Interest to the party from whom obtained shall be subject to the same conditions as set forth in this Article XIV in regard to the exercise of a right to surrender.

ARTICLE XV—RENTALS AND MINIMUM ROYALTIES

15.1 Any unitized lease on non-Federal land containing provisions which would terminate such lease unless drilling oper-

ations are commenced upon the land covered thereby within the time therein specified or rentals are paid for the privilege of deferring such drilling operations, the rentals required thereby shall, notwithstanding any other provisions of this Agreement, be deemed to accrue as to the portion of the lease not included within a Participating Area and become payable during the term thereof as extended by this Agreement, and until the required drillings are commenced upon the land covered thereby.

15.2 Rentals are payable on Federal leases on or before the anniversary date of each lease year; minimum royalties accrue from the anniversary date of each lease year and are payable at the end of the lease year.

15.3 Beginning with the lease year commencing on or after _____ and for each lease year thereafter, rental or minimum royalty for lands of the United States subject to this Agreement shall be made on the following basis:

(a) An advance annual rental in the amount prescribed in unitized Federal leases, in no event creditable against production royalties, shall be paid for each acre or fraction thereof which is not within a Participating Area.

(b) A minimum royalty shall be charged at the beginning of each lease year (such minimum royalty to be due as of the last day of the lease year and payable within thirty (30) days thereafter) of $2 an acre or fraction thereof, for all Unitized Acreage within a Participating Area as of the beginning of the lease year. If there is production during the lease year the deficit, if any, between the actual royalty paid and the minimum royalty prescribed herein shall be paid.

15.4 Rental or minimum royalties due on leases committed hereto shall be paid by Working Interest Owners responsible therefor under existing contracts, laws, and regulations, or by the Unit Operator.

15.5 Settlement for royalty interest shall be made by Working Interest Owners responsible therefor under existing contracts, laws, and regulations, or by the Unit Operator, on or before the last day of each month for Unitized Substances produced during the preceding calendar month.

15.6 Royalty due the United States shall be computed as provided in the operating regulations and paid in value as to all Unitized Substances on the basis of the amounts thereof allocated to unitized Federal land as provided herein at the royalty rate or rates specified in the respective Federal leases.

15.7 Nothing herein contained shall operate to relieve the lessees of any land from their respective lease obligations for the payment of any rental, minimum royalty, or royalty due under their leases.

ARTICLE XVI—OPERATIONS ON NONPARTICIPATING LAND

16.1 Any party hereto owning or controlling the Working Interest in any Unitized Land having thereon a regular well location may, with the approval of the Supervisor and at such party's sole risk, costs, and expense, drill a well to test any formation of deposit for which a Participating Area has not been established or to test any formation or deposit for which a Participating Area has been established if such location is not within said Participating Area, unless within 30 days of receipt of notice from said party of his intention to drill the well, the Unit Operator elects and commences to drill such a well in like manner as other wells are drilled by the Unit Operator under this Agreement.

16.2 If any well drilled by a Working Interest Owner other than the Unit Operator proves that the land upon which said well is situated may properly be included in a Participating Area, such Participating Area shall be established or enlarged as provided in this Agreement and the well shall thereafter be operated by the Unit Operator in accordance with the terms of this Agreement and the Unit Operating Agreement.

ARTICLE XVII—LEASES AND CONTRACTS CONFORMED AND EXTENDED

17.1 The terms, conditions, and provisions of all leases, subleases, and other contracts relating to exploration, drilling, development, or utilization of geothermal resources on lands committed to this Agreement, are hereby expressly modified and amended only to the extent necessary to make the same conform to the provisions hereof, otherwise said leases, subleases, and contracts shall remain in full force and effect.

17.2 The parties hereto consent that the Secretary shall, by his approval hereof, modify and amend the Federal leases committed hereto and the regulations in respect thereto to the extent necessary to conform said leases and regulations to the provisions of this Agreement.

17.3 The development and/or operation of lands subject to this Agreement under the terms hereof shall be deemed full performance of any obligations for development and operation with respect to each and every separately owned tract subject to this Agreement, regardless of whether there is any development of any particular tract of the Unit Area.

17.4 Drilling and/or producing operations performed hereunder upon any tract of Unitized Lands will be accepted and deemed to be performed upon and for the benefit of each and every tract of Unitized Land.

17.5 Suspension of operations and/or production on all Unitized Lands pursuant to direction or consent of the Secretary or his duly authorized representative shall be deemed to constitute such suspension pursuant to such direction or consent as to each and every tract of Unitized Land. A suspension of operations and/or production limited to specified lands shall be applicable only to such lands.

17.6 Subject to the provisions of Article XV hereof and 17.10 of this Article, each lease, sublease, or contract relating to the exploration, drilling, development, or utilization of geothermal resources of lands other than those of the United States committed to this Agreement, is hereby extended beyond any such term so provided therein so that it shall be continued for and during the term of this Agreement.

17.7 Subject to the lease renewal and the readjustment provision of the Act, any Federal lease committed hereto may, as to the Unitized Lands, be continued for the term so provided therein, or as extended by law. This subsection shall not operate to extend any lease or portion thereof as to lands excluded from the Unit Area by the contraction thereof.

17.8 Each sublease or contract relating to the operations and development of Unitized Substances from lands of the United States committed to this Agreement shall be continued in force and effect for and during the term of the underlying lease.

17.9 Any Federal lease heretofore or hereafter committed to any such unit plan embracing lands that are in part within and in part outside of the area covered by any such plan shall be segregated into separate leases as to the lands committed and the lands not committed as of the effective date of unitization.

17.10 In the absence of any specific lease provision to the contrary, any lease, other than a Federal lease, having only a portion of its land committed hereto shall be segregated as to the portion committed and the portion not committed, and the provisions of such lease shall apply separately to such segregated portions commencing as of the effective date hereof. In the event any such lease provides for a lump-sum rental payment, such payment shall be prorated between the portions so segregated in proportion to the acreage of the respective tracts.

17.11 Upon termination of this Agreement, the leases covered hereby may be maintained and continued in force and effect in accordance with the terms, provisions, and conditions of the Act, the lease or leases, and amendments thereto.

ARTICLE XVIII—EFFECTIVE DATE AND TERM

18.1 This Agreement shall become effective upon approval by the Secretary or his duly authorized representative and shall terminate five (5) years from said effective date unless,

(a) Such date of expiration is extended by the Director, or

(b) Unitized Substances are produced or utilized in commercial quantities in which event this Agreement shall continue for so long as Unitized Substances are produced or utilized in commercial quantities, or

(c) This Agreement is terminated prior to the end of said five (5) year period as heretofore provided.

18.2 This Agreement may be terminated at any time by the owners of a majority of the Working Interests, on an acreage basis, with the approval of the Supervisor. Notice of any such approval shall be given by the Unit Operator to all parties hereto.

ARTICLE XIX—APPEARANCES

19.1 Unit Operator shall, after notice to other parties affected, have the right to appear for and on behalf of any and all interests affected hereby before the Department of the Interior, and to appeal from decisions, orders or rulings issued under the regulations of said Department, or to apply for relief from any of said regulations or in any proceedings relative to operations before the Department of the Interior or any other legally constituted authority: *Provided, however,* That any interested parties shall also have the right, at its own expenses, to be heard in any such proceeding.

ARTICLE XX—NO WAIVER OF CERTAIN RIGHTS

20.1 Nothing contained in this Agreement shall be construed as a waiver by any party hereto of the right to assert any legal or constitutional right or defense pertaining to the validity or invalidity of any law of the State wherein lands subject to this Agreement are located, or of the United States, or regulations issued thereunder, in any way affecting such party or as a waiver by any such party of any right beyond his or its authority to waive.

ARTICLE XXI—UNAVOIDABLE DELAY

21.1 The obligations imposed by this Agreement requiring Unit Operator to commence or continue drilling or to produce or utilize Unitized Substances from any of the land covered by this Agreement, shall be suspended while, but only so long as, Unit Operator, despite the exercise of due care and diligence, is prevented from complying with such obligations, in whole or in part, by strikes, Acts of God, Federal or other applicable law, Federal or other authorized governmental agencies, unavoidable accidents, uncontrollable delays in transportation, inability to obtain necessary materials in open market, or other matters beyond the reasonable control of Unit Operator, whether similar to matters herein enumerated or not.

21.2 No unit obligation which is suspended under this section shall become due less than thirty (30) days after it has been determined that the suspension is no longer applicable.

21.3 Determination of creditable "Unavoidable Delay" time shall be made by the Unit Operator subject to approval of the Supervisor.

ARTICLE XXII—POSTPONEMENT OF OBLIGATIONS

22.1 Notwithstanding any other provisions of this Agreement, the Director, on his own initiative or upon appropriate justification by Unit Operator, may postpone any obligation established by and under this Agreement to commence or continue drilling or to operate on or produce Unitized Substances from lands covered by this Agreement when in his judgement, circumstances warrant such action.

ARTICLE XXIII—NONDISCRIMINATION

23.1 In connection with the performance of work under this Agreement, the Operator agrees to comply with all of the provisions of section 202 (1) to (7) inclusive, of Executive Order 11246 (30 F.R. 12319), as amended by Executive Order 11375 (32 F.R. 14303), which are hereby incorporated by reference in this Agreement.

ARTICLE XXIV—COUNTERPARTS

24.1 This Agreement may be executed in any number of counterparts no one of which needs to be executed by all parties, or may be ratified or consented to by separate instruments in writing specifically referring hereto, and shall be binding upon all parties who have executed such a counterpart, ratification or consent hereto, with the same force and effect as if all such parties had signed the same document.

ARTICLE XXV—SUBSEQUENT JOINDER

25.1 If the owner of any substantial interest in geothermal resources under a tract within the Unit Area fails or refuses to subscribe or consent to this Agreement, the owner of the Working Interest in that tract may withdraw said tract from this Agreement by written notice delivered to the Supervisor and the Unit Operator prior to the approval of this Agreement by the Supervisor.

25.2 Any geothermal resources interests in lands within the Unit Area not committed hereto prior to approval of this Agreement may thereafter be committed by the owner or owners thereof subscribing or consenting to this Agreement, and, if the interest is a Working Interest, by the owner of such interest also subscribing to the Unit Operating Agreement.

25.3 After operations are commenced hereunder, the right of subsequent joinder, as provided in this Article XXV, by a working Interest Owner is subject to such requirements or approvals, if any, pertaining to such joinder, as may be provided for in the Unit Operating Agreement. Joinder to the Unit Agreement by a Working Interest Owner, at any time, must be accompanied by appropriate joinder to the Unit Operating Agreement, if more than one committed Working Interest Owner is involved, in order for the interest to be regarded as committed to this Unit Agreement.

25.4 After final approval hereof, joinder by a nonworking interest owner must be consented to in writing by the Working Interest Owner committed hereto and responsible for the payment of any benefits that may accrue hereunder in behalf of such nonworking interest. A nonworking interest may not be committed to this Agreement unless the corresponding Working Interest is committed hereto.

25.5 Except as may otherwise herein be provided, subsequent joinders to this Agreement shall be effective as of the first day of the month following the filing with the Supervisor of duly executed counterparts of all or any papers necessary to establish effective commitment of any tract to this Agreement unless objection to such joinder is duly made within sixty (60) days by the Supervisor.

ARTICLE XXVI—COVENANTS RUN WITH THE LAND

26.1 The covenants herein shall be construed to be covenants running with the land with respect to the interest of the parties hereto and their successors in interest until this Agreement terminates, and any grant, transfer, or conveyance, of interest in land or leases subject hereto shall be and hereby is conditioned upon the assumption of all privileges and obligations hereunder by the grantee, transferee, or other successor in interest.

26.2 No assignment or transfer of any Working Interest or other interest subject hereto shall be binding upon Unit Operator until the first day of the calendar month after Unit Operator is furnished with the original, photostatic, or certified copy of the instrument of transfer.

ARTICLE XXVII—NOTICES

27.1 All notices, demands or statements required hereunder to be given or rendered to the parties hereto shall be deemed fully given if given in writing and personally delivered to the party or sent by postpaid registered or certified mail, addressed to such party or parties at their respective addresses set forth in connection with the signatures hereto or to the ratification or consent hereof or to such other address as any such party may have furnished in writing to party sending the notice, demand or statement.

ARTICLE XXVIII—LOSS OF TITLE

28.1 In the event title to any tract of Unitized Land shall fail and the true owner cannot be induced to join in this Agreement, such tract shall be automatically regarded as not committed hereto and there shall be such readjustment of future costs and benefits as may be required on account of the loss of such title.

28.2 In the event of a dispute as to title as to any royalty, Working Interest, or other interests subject hereto, payment or delivery on account thereof may be withheld without liability for interest until the dispute is finally settled: *Provided*, That, as to Federal land or leases, no payments of funds due the United States shall be withheld, but such funds shall be deposited as directed by the Supervisor to be held as unearned money pending final settlement of the title dispute, and then applied as earned or returned in accordance with such final settlement.

ARTICLE XXIX—TAXES

29.1 The Working Interest Owners shall render and pay for their accounts and the accounts of the owners of nonworking interests all valid taxes on or measured by the Unitized Substances in and under or that may be produced, gathered, and sold or utilized from the land subject to this Agreement after the effective date hereof.

29.2 The Working Interest Owners on each tract may charge a proper proportion of the taxes paid under 29.1 hereof to the owners of nonworking interests in said tract, and may reduce the allocated share of each royalty owner for taxes so paid. No taxes shall be charged to the United States or the State of _____ or to any lessor who has a contract with his lessee which requires the lessee to pay such taxes.

ARTICLE XXX—RELATION OF PARTIES

30.1 It is expressly agreed that the relation of the parties hereto is that of independent contractors and nothing in this Agreement contained, expressed, or implied, nor any operations conducted hereunder, shall create or be deemed to have created a partnership or association between the parties hereto or any of them.

ARTICLE XXXI—SPECIAL EFDERAL LEASE STIPULATIONS AND/OR CONDITIONS

31.1 Nothing in this Agreement shall modify special lease stipulations and/or conditions applicable to lands of the United States. No modification of the conditions necessary to protect the lands or functions of lands under the jurisdiction of any Federal agency is authorized except with prior consent in writing whereby the authorizing official specifies the modification permitted.

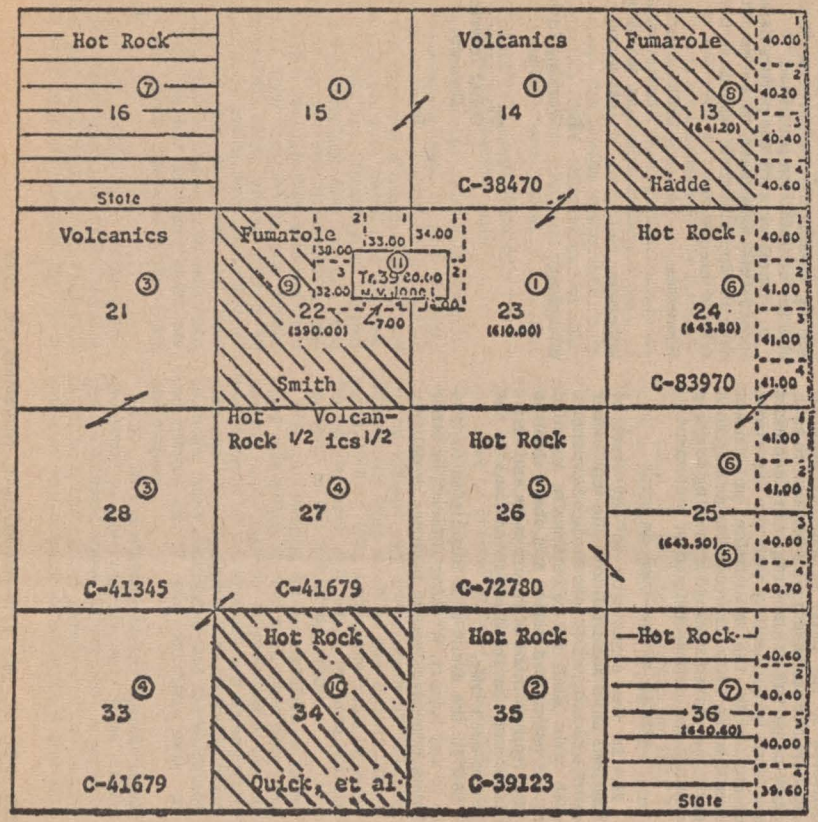
In witness whereof, the parties hereto have caused this Agreement to be executed and have set opposite their respective names the date of execution.

Witnesses:
_____
_____
Witnesses:
_____
_____
Witnesses:
_____
_____

Unit operator (as unit operator and as working interest owner)
_____
By _____
Working Interest Owners:
_____
By _____
Other Interest Owners:
_____
By _____

§ 271.13 Sample form of Exhibit A of unit agreement.

EXHIBIT A—BIG VAPOR UNIT AREA, T. 13 N., R. 10 W., M.D.M., California
R. 1 W.



① Means tract number as listed on Exhibit B

PUBLIC LAND

STATE LAND

PATENTED LAND

§ 271.14 Sample Form of Exhibit B of unit agreement.

EXHIBIT B—BIG VAPOR UNIT AREA, NAPA COUNTY, CALIF., T. 13 N., R. 10 W.

Tract No.	Description of land	No. of acres	Serial No. and expiration date of lease	Basic royalty and ownership percentage	Lessee of record	Working interest and percentage
	Federal land		*California serials*			
1	Sec. 14: All Sec. 15: All. Sec. 23: Lots 1, 2, S½, NE¼, E½NW¼.	1,890.00	38470 July 31, 1982	United States: All	Volcanics, Inc	Volcanics, Inc: All.
2	Sec. 35: All	640.00	39123 July 31, 1982.	do	D. H. Boiler	Hot Rock Co.: All.
3	Sec. 21: All Sec. 28: All.	1,280.00	41345 July 31, 1982.	do	C. S. Waters—50% D. F. Mann—50%	Volcanics, Co.: 50%. Hot Rock Co.: 50%.
4	Sec. 27: All Sec. 33: All.	1,280.00	41679	do	H. C. Pipes	Fumarole Ltd.: All.
5	Sec. 26: All Sec. 25: S½.	961.50	71278 Sept. 31, 1982.	do	Hot Rock Co	Hot Rock Co.: All.
6	Sec. 24: All Sec. 25: N½.	965.80	83970 Application.	do	H. C. Pipes	Do.
	6 Federal tracts 7,017.30 acres or 68.47% of unit area.					
	California State land					
7	Sec. 16: All Sec. 36: All.	1,280.60	65-67430	State of California: All.	Hot Rock Co	Hot Rock Co.: All.
	1 State tract 1,280.60 acres or 12.49% of unit area.					
	Patented land					
8	Sec. 13: All	641.20	June 30, 1979	I. B. Hadde: All	Fumarole, Ltd	Fumarole, Ltd.: All.
9	Sec. 22: Lots 1, 2, 3, 4, S½, NW¼.	590.00	Feb. 28, 1981	J. P. Smith: All	do	Do.
10	Sec. 34: All	640.00	Mar. 31, 1981	A. G. Quick: 75% P. T. Land: 25%.	Hot Rock Co	Hot Rock Co.: All.
11	Tract 39	80.00	Apr. 30, 1981	M. V. Jones: All	Unleased	M. V. Jones: All.
	3 Patented tracts 1,951.20 acres or 19.04% of unit area.					
	Total 11 tracts 10,249.10 acres in entire unit area.					

§ 271.15 Form of collective bond.

COLLECTIVE CORPORATE SURETY

Known all men by these presents, That we, _____ signing as Principal (Name of Unit Operator), for and on behalf of the record owners of unitized substances now or hereafter covered by the unit agreement for this _____ (Name of Unit), approved _____ (Date), _____ (Name and address of Surety), as Surety are jointly and severally held and firmly bound unto the United States of America in the sum of _____ (Amount of bond) Dollars, lawful money of the United States, for the use and benefit of and to be paid to the United States and any entryman or patentee of any portion of the unitized land, heretofore entered or patented with the reservation of the geothermal resources deposits to the United States, for which payment well and truly to be made, we find ourselves, and each of us, and each of our heirs, executors, administrators, successors, and assigns by these presents.

The condition of the foregoing obligation is such that, whereas the Secretary on _____ (Date) approved under the provisions of the Geothermal Steam Act of 1970, a unit agreement for the development and

operation of the _____; (Name of Unit and State)

and

Whereas said Principal and record owners of unitized substances, pursuant to said unit agreement, have entered into certain covenants and agreements as set forth therein, under which operations are to be conducted; and

Whereas said Principal as Unit Operator has assumed the duties and obligations of the respective owners of unitized substances as defined in said unit agreement; and

Whereas said Principal and surety agree to remain bound in the full amount of the bond for failure to comply with the terms of the unit agreement, and the payment of rentals, minimum royalties, and royalties due under the Federal leases committed to said unit agreement; and

Whereas the Surety hereby waives any right of notice of and agrees that this bond may remain in force and effect notwithstanding:

(a) Any additions to or change in the ownership of the unitized substances herein described.

(b) Any suspension of the drilling or producing requirements or waiver, suspension or reduction of rental or minimum royalty payments or reduction of royalties pursuant to applicable laws or regulations thereunder; and

Whereas said Principal and Surety agree to the payment of compensatory royalty under the regulations of the Interior Department in lieu of drilling necessary offset wells in the event of drianage; and

Whereas nothing herein contained shall preclude the United States from requiring an additional bond at any time when deemed necessary:

Now, therefore, if the said Principal shall faithfully comply with all of the provisions of the above-identified unit agreement and with the terms of the leases committed thereto, then the above obligation is to be of no effect; otherwise to remain in full force and virtue.

Signed, sealed, and delivered this _____ day of _____, 19____, in the presence of:

Witnesses:

_____ _____ (Principal)

_____ _____ (Surety)

§ 271.16 Form of designation of successor unit operator by working interest owners.

Designation of successor Unit Operator _____, Unit Area, County of _____ State of _____, No. _____.

This indenture, dated as of the _____ day of _____, 19____, by and between _____ hereinafter designated as "First Party," and the owners of unitized working interest, hereinafter designated as "Second Parties."

Witnesseth: Whereas under the provisions of the Geothermal Steam Act of December 24, 1970, 84 Stat. 1566, the Secretary on the _____ day of _____, 19____, approved a unit agreement for the _____ Unit Area, wherein _____ is designated as Unit Operator; and

Whereas said _____ has resigned as such Operator,[1] and the designation of a successor Unit Operator is now required pursuant to the terms thereof; and

Whereas First Party has been and hereby is designated by Second Parties as a Unit Operator, and said First Party desires to assume all the rights, duties, and obligations of Unit Operator under the said unit agreement.

Now, therefore, in consideration of the premises hereinbefore set forth and the promises hereinafter stated, the First Party hereby covenants and agrees to fulfill the duties and assume the obligations of Unit Operator under and pursuant to all the terms of the _____ unit agreement, and the Second Parties covenant and agree that, effective upon approval of this indenture by the Supervisor, of the Geological Survey, First Party shall be granted the exclusive right and privilege of exercising any and all rights and privileges and Unit Operator, pursuant to the terms and conditions of said unit agreement; said unit agreement being hereby incorporated herein by references and made a part hereof as fully and effectively as though said unit agreement were expressly set forth in this instrument.

In witness whereof, the parties hereto have executed this instrument as of the date hereinabove set forth.

_____ _____ (First Party)

_____ (Witnesses)

_____ _____ (Second Party)

_____ (Witnesses)

I hereby approve the foregoing indenture designating _____ as Unit Operator under the unit agreement for the _____ Unit Area, this _____ day of _____, 19____.

_____ Supervisor, U.S. Geological Survey.

§ 271.17 Form of change in unit operator by assignment.

Change in Unit Operator _____ unit Area, County of _____, State of _____, No. _____.

This indenture, dated as of the _____ day of _____, 19____, by and between _____ hereinafter designated as "First Party," and _____, hereinafter designated as "Second Party."

Witnesseth: Whereas under the provisions of the Geothermal Steam Act of December 24, 1972, 84 Stat. 1566, the Secretary on the _____ day of _____, 19____, approved a unit agreement for the _____ Unit Area, wherein the First Party is designated as Unit Operator; and

Whereas the First Party desires to transfer, assign, release, and quitclaim, and the Second Party desires to assume all the rights, duties, and obligations of Unit Operator under the unit agreement; and

Whereas for sufficient and valuable consideration, the receipt whereof is hereby acknowledged, the First Party has transferred, conveyed and assigned all his/its rights under certain operating agreements involving lands within the area set forth in said unit agreement unto the Second Party:

Now, therefore, in consideration of the premises hereinbefore set forth, the First Party does hereby transfer, assign, release, and quitclaim unto Second Party all of First Party's rights, duties and obligations as Unit Operator under said unit agreement; and

Second Party hereby accept this assignment and hereby convenants and agrees to fulfill the duties and assume the obligations of Unit Operator under and pursuant to all the terms of said unit agreement to the full extent set forth in this assignment, effective upon approval of this indenture by the Supervisor of the Geological Survey; said unit agreement being hereby incorporated herein by reference and made a part hereof as fully and effectively as though said unit agreement were expressly set forth in this instrument.

In witness whereof, the parties hereto have executed this instrument as of the date hereinabove set forth.

_____ _____ (First Party)

_____ (Witnesses)

_____ _____ (Second Party)

_____ (Witnesses)

I hereby approve the foregoing indenture designated _____ as Unit Operator under the unit agreement for the _____ Unit Area, this _____ day of _____, 19____.

_____ Supervisor, U.S. Geological Survey

Dated: November 22, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-20349 Filed 11-28-72;8:45 am]

[1] Where the designation of a successor Unit Operator is required for any reason other than resignation, such reason shall be substituted for the one stated.

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