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federal register

Tuesday
August 17, 1982

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Food and Drug Administration

Biologics
Food and Drug Administration

Coal Mining
Surface Mining Reclamation and Enforcement Office

Crop Insurance
Federal Crop Insurance Corporation

Fisheries
National Oceanic and Atmospheric Administration

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Selected Subjects

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Presidential Documents

Title 3—

The President

Proclamation 4958 of August 13, 1982

Women's Equality Day, 1982

By the President of the United States of America

A Proclamation

On August 26, 1920, the 19th Amendment to the Constitution became law, granting women the right to vote. On this, the 62nd Anniversary of that historic day, we Americans can pause and take pride in the progress we have made toward the goal of equal opportunity.

We celebrate today not only the achievements of the past, but, also, our continued commitment to build an America in which all our citizens will share equally in the rights and responsibilities of our Nation.

In the intervening years since 1920, women have faithfully carried out responsibilities at all levels of government, in every area of employment and education, and in the nurturing of families and children.

Today, more than ever, we honor women for their contribution in helping to make America great. Let us help pledge anew to dedicate our efforts to ensure equality of opportunity for every citizen of the United States.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim August 26, 1982, as Women's Equality Day. I call upon every American to join me in this tribute.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of Aug., in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-22584
Filed 8-16-82; 10:22 am]
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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 101

Warehouse Charges

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action makes final a change in the regulations requiring warehousemen licensed under the U.S. Warehouse Act to establish their individual cotton season not later than September 1 of each year rather than September 15 as presently required. This will enable licensed warehousemen to correlate requirements under the U.S. Warehouse Act with those required of the same warehousemen contractually by Commodity Credit Corporation under the Cotton Storage Agreement.

EFFECTIVE DATE: August 17, 1982.

FOR FURTHER INFORMATION CONTACT: Orval Kerchner, Chief, Warehouse Development Branch, Warehouse Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250 (202–447–3821).

SUPPLEMENTARY INFORMATION: On July 2, 1982, the Department of Agriculture published a proposed regulation 47 FR 28965 amending 7 CFR Part 101. The purpose of the proposed rulemaking was to publish for comment by the cotton trade and other interested parties a proposed amendment to § 101.29 of the warehouse regulations for the storage of cotton. The proposed amendment would require licensed warehousemen to establish their individual cotton season not later than September 1 of each year rather than September 15 as presently required. This change was suggested by certain of the cotton trade who also were approved by the Department under Cotton Storage Agreements with Commodity Credit Corporation. With this change somewhat similar requirements by both agencies would be correlated.

This action was reviewed under the USDA procedure established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1, and was classified "nonmajor" as it does not meet the criteria contained therein for major regulatory actions. William T. Manley, Deputy Administrator for Marketing Program Operations, determined that the action would not have a significant impact on a substantial number of small business entities because licensing is an elective of the applicant and use of the services is voluntary.

Good cause is found for making this rule effective upon publication so as to allow interested parties the maximum amount of time possible to establish their individual cotton seasons before September 1, and to notify the Department "not less than five days next preceding the date selected."

Written comments were to be received by July 19, 1982. No comments were received.

Based upon the above § 101.29 of the regulations is amended by changing "September 15" to "September 1." This action will enable licensed warehousemen to correlate the warehouse charge requirements under the U.S. Warehouse Act with those required of the same warehousemen contractually by the Commodity Credit Corporation under the Cotton Storage Agreement.

List of Subjects in 7 CFR Part 101

Administrative practice and procedure, Agriculture commodities, Cotton warehouses.

PART 101—COTTON WAREHOUSES

The regulations, therefore, are amended as follows:

§ 101.29 [Amended]

1. Section 101.29 is amended by changing "September 15" to "September 1."

Done at Washington, D.C., August 9, 1982.

William T. Manley,

Acting Administrator.

[FR Doc. 82–22329 Filed 8–16–82; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Parts 916 and 917

[Nectarine Reg. 14, Amdt. 2; Peach Reg. 14, Amdt. 2; Plum Reg. 19, Amdt. 2]

Nectarines, Plums, and Peaches Grown in California; Amendment of Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends grade and size requirements for fresh shipments of nectarines, peaches, and plums grown in California. These requirements are designed to promote marketing of suitable quality and sizes of fresh fruit in the interest of producers and consumers.

EFFECTIVE DATE: August 17, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities. The action is designed to promote orderly marketing of the California nectarine, peach, and plum crops for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

The amended regulations are issued under the marketing agreements, as amended, and Order Nos. 916 and 917, as amended (7 CFR Parts 916 and 917), regulating the handling of fresh nectarines, pears, plums and peaches grown in California. The agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Shipments of California nectarines, peaches, and plums are regulated by grade and size under Nectarine Regulation 14, Peach Regulation 14, and Plum Regulation 19 (7 CFR Parts 916 and 917), respectively, issued in July 1981. Because these regulations change infrequently from season to season they were issued on a continuing basis subject to amendment, modification, or

suspension of regulations as may be recommended by the committees and approved by the Secretary.

The Nectarine Administrative Committee, the Peach Commodity Committee, and the Plum Commodity Committee met May 5–6, 1982, and recommended amendment of the grade and size requirements for nectarines, peaches, and plums. This final rule is based upon these recommendations and information submitted by the committees, and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the Act.

An interim rule was published June 2, 1982, in the **Federal Register** (47 FR 23913), amending certain grade and size requirements for fresh shipments of nectarines, peaches, and plums for the period June 2, 1982–August 15, 1982, and providing for the filing of comments through June 30, 1982. No comments were received. The regulatory requirements in this final rule are the same as those currently in effect. Therefore, this final rule should be made effective upon publication in the **Federal Register** (August 17, 1982) so that regulated handlers can plan their operations accordingly.

This final rule amends requirements for nectarines, peaches, and plums by regulating by size several varieties now produced in commercially significant quantities, and by deleting from size regulation several varieties no longer produced in significant quantities. For nectarines, § 916.356 is amended to add size requirements for 6 new varieties (Sunfre, Autumn Delight, Late Tina Red, Red Jim, Summer Beaut, and Sparkling Red (46–G–140)), and to delete from size regulation 3 varieties (73–40, Royal Grand, and Sun King). For peaches, § 917.459 is amended to add size requirements for 3 new varieties (Golden Lady, Early Redhaven, and Cassie), and to delete size requirements for 4 varieties (Dixired, Bella Rosa, Summertime, and Treasure). For plums, § 917.460 is amended to add size requirements for 5 new varieties (Early Hawaiian Ann, July Red, Milwaukee, Rosemary, and Spring Beaut), and to delete size requirements for 2 varieties (Beauty and Burmosa). Also, the plum variety Angee is added to the grade regulation permitting additional allowance for stem end cracks. The final rule also revises CFR numerical designations relating to the U.S. grade standards for nectarines, peaches, and plums, consistent with redesignations appearing in **Federal Register** (46 FR 63203), while not affecting the grade standards themselves; revises paragraph (a)(2) in § 916.356 to change the count of Mayred nectarines to 112 from 122 correcting a printing error in **Federal Register** (46 FR 37498); and makes 2 nonsubstantive changes relating to varietal names for the "Elberta" variety of peaches, and the "Freedom" variety of plums.

The amended regulations are necessary to prevent the shipment of California fruit not meeting the specified requirements, and are designed to provide ample supplies of good quality fruit in the interest of producers and consumers pursuant to the declared policy of the act.

To minimize disruption as much as possible and still bring these marketing orders into compliance with the Secretary's guidelines for fruit, vegetable, and specialty crop marketing orders issued January 25, 1982, these regulations are being issued with the understanding that the committees regulated under 7 CFR Parts 916 and 917 will initiate certain actions during 1982. These actions are necessary so that operations under the programs will conform with the guidelines. The guidelines state that marketing orders such as these which contain quality provisions should not be used as a form of supply control. In evaluating quality control programs, emphasis is placed on: (1) Whether quality controls have varied significantly from season to season or within seasons; (2) whether the percentages of product meeting minimum quality standards has been declining; or (3) whether the standards have been tightened over the years. In addition, to conform with the guidelines, these marketing orders should contain a limitation on committee tenure.

It is found that it is impracticable and contrary to the public interest to postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making these regulatory provisions effective as specified in that: (1) No comments were received during the 28 days provided in the interim rule published in the **Federal Register**; (2) the regulatory requirements in this final rule are the same as those in the interim rule; and (3) California nectarine, peach, and plum handlers have been apprised of these requirements and the effective date.

List of Subjects

7 CFR Part 916

Marketing agreements and orders, Nectarines, California.

7 CFR Part 917

Marketing agreements and orders, Pears, Plums, Peaches, California.

Therefore, §§ 916.356, 917.459, and 917.460 are amended as follows:

PART 916—NECTARINES GROWN IN CALIFORNIA

1. Section 916.356 (7 CFR Part 916; 47 FR 23913) is amended by revising the introductory texts of paragraphs (a), (a)(2), (a)(4), and (a)(5), and paragraph (b) to read as follows:

§ 916.356 Nectarine Regulation 14.

(a) On and after August 17, 1982, no handler shall handle:

* * * * *

(2) Any package or container of Mayred variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 112 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in paragraph (a)(2)(i) of this section are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 105 nectarines.

* * * * *

(4) Any package or container of Apache, Armking, Arm Queen, Crimson Gold, Early Star, Gee Red, June Belle, June Grand, May Grand, Red June, Spring Grand, Sunfre, or Zee Gold variety nectarines unless: * * *

(5) Any package or container of Autumn Grand, Bob Grand, Clinton-Strawberry, Early Sun Grand, Ed's Red, Fairlane, Fantasia, Firebrite, Flamekist, Flavortop, Flavortop I, Gold King, Granderli, Hi-Red, Independence, Kent Grand, Late Le Grand, Le Grand, Moon Grand, Niagara Grand, Red Diamond, Red Free, Red Grand, Regal Grand, Richards Grand, Royal Giant, Ruby Grand, September Grand, Tasty Free, Tom Grand, Honey Gold, Larry's Grand, Son Red, Spring Red, Late Tina Red, Red Jim, Summer Beaut, Sparkling Red (48–G–140), Star Grand, Summer Grand, Sun Grand, or Autumn Delight variety nectarines unless: * * *

(b) As used herein, "U.S. No. 1" and "standard pack" mean the same as defined in the United States Standards for Grades of Nectarines (7 CFR 51.3145–3160); "No. 22D standard lug box" means the same as defined in Section 1380.19(17) of the "Regulations of the California Department of Food and Agriculture."

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

2. Section 917.459 (7 CFR Part 917; 47 FR 23913) is amended by revising the introductory texts of paragraphs (a), (a)(3), (a)(4), and (a)(5), and paragraph (d) to read as follows (as published the designation for paragraph (a) was omitted):

§ 917.459 Peach Regulation 14.

(a) On and after August 17, 1982, no handler shall handle:

* * * * *

(3) Any package or container of any type of Babcock, Bonjour, Cardinal, Early Coronet, Early Royal May, Firecrest, First Lady, Flavorcrest, JJK–1, June Lady, May Lady, Merrill Gemfree, Royal May, Springcrest, Royal Crest, May Crest, Golden Lady, or Tizz variety peaches unless: * * *

* * * * *

(4) Any package or container of Coronet, Indian Red, Merrill Gem, Redhaven, Redtop, Early Redhaven, or Regina variety peaches unless: * * *

(5) Any package or container of Angelus, Autumn Gem, Belmont, Cal Red, Carnival, Early Fairtime, Early O'Henry, Elegant Lady, Fairtime, Fay Elberta, Fayette, Fiesta, Fire Red, Flamecrest, Fortyniner, Franciscan, Gem Crest, Halloween, Jody Gaye, July Elberta (Early Elberta, Kim Elberta, and Socala), July Lady, Kearney, Mardigras, Merricle, O'Henry, Otani, Pacifica, Parade, Paradise, Preuss Suncrest, Red Cal, Redglobe, Red Lady, Elberta, Rio Oso Gem, Scarlet Lady, Sparkle, Summerset, Suncrest, Sun Lady, Toreador, Cassie, or Windsor variety peaches unless: * * *

* * * * *

(d) As used herein, "U.S. No. 1" and "standard pack" mean the same as defined in the United States Standards for Grades of peaches (7 CFR 51.1210–1223); and "No. 22D standard lug box" and "No. 12B standard fruit (peach) box" mean the same as defined in Section 1380.19(18) of the "Regulations of the California Department of Food and Agriculture."

8. Section 917.460 (7 CFR Part 917; 47 FR 23913) is revised to read as follows:

§ 917.460 Plum Regulation 19.

(a) On and after August 17, 1982, no handler shall ship any lot of packages or containers of any plums, other than the varieties named in paragraph (b) hereof, unless such plums grade at least U.S. No. 1: *Provided,* That maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service.

(b) On and after August 17, 1982, no handler shall ship:

(1) Any lot of packages or containers of Tragedy or Kelsey plums unless such plums grade U.S. No. 1, with a total tolerance of 10 percent for defects not considered serious damage in addition to the tolerances permitted by such grade: *Provided,* That maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service.

(2) Any lot of packages or containers of Angee, Autumn Queen, Casselman, Empress, Freedom, Grand Rosa, Improved Late Santa Rosa, King David, Late Santa Rosa, Linda Rosa, Red Rosa, Rosa Grande, Roysum, SW–1, and Swall Rosa plums unless such plums grade U.S. No. 1, except that healed cracks emanating from the stem end which do not cause serious damage shall not be considered as a grade defect with respect to such grade: *Provided,* That maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service.

(c) On and after August 17, 1982, no handler shall ship any package or other container of any variety of plums listed in Column A of the following Table I unless such plums are of a size that an eight-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in Column B of said table.

TABLE 1

Column A, variety	Column B, plums per sample
Ace	55
Amazon	64
Andys Pride	69
Angeleno	67
Autumn Rosa	72
Bee Gee	65
Black Beaut	74
Black Knight	58
Casselman	63
Durado	74
Early Hawaiian Ann	60
Ebony	66
El Dorado	68
Elephant Heart	53
Empress	57
Freedom	56
Fresno Rosa	62
Friar	56
Frontier	61
Gar-Rosa	71
Golden Glow	60
Grand Rosa	54
July Red	64
July Santa Rosa	69
Kelsey	47
King David	50
King's Black	58

TABLE 1—Continued

Column A, variety	Column B, plums per sample
Laroda	58
Late Santa Rosa (including improved Late Santa Rosa and Swall Rosa)	64
Linda Rosa	63
Mariposa	61
Midsummer	63
Milwaukee	56
Nubiana	56
President	57
Queen Ann	50
Queen Rosa	53
Red Beaut	74
Red Rosa	64
Redroy	58
Rosa Ann	69
Rosemary	50
Rosa Grande	63
Rose Ann	60
Royal Red	74
Roysum	74
Santa Rosa	69
Simka, Arrosa, New Yorker	50
Spring Beaut	74
Standard	83
Tragedy	114
Wickson	51

(d) As used herein, "U.S. No. 1" and "serious damage" mean the same as defined in the United States Standards for Grades of Fresh Plums and Prunes (7 CFR 51.1520–15.38).

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

Dated: August 12, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–22353 Filed 8–16–82; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF ENERGY

10 CFR Part 500

[Docket No. ERA–R–81–06]

Powerplant and Industrial Fuel Use Act of 1978

CFR Correction

In the January 1, 1982 revision of Title 10 (Part 500 to End) of the Code of Federal Regulations at page 7, the remaining definitions of § 500.2 were inadvertently omitted. The text of these definitions was published at 46 FR 59886, December 7, 1981, and begins with the definition "DOE" at page 59886, second column, up to and including the definition of "Wetlands areas" contained in the first column at page 59889.

BILLING CODE 1505–01–M

Office of Vehicle and Engine R&D

Office of Conservation and Renewable Energy

10 CFR Part 791

[Docket No. CAS-RM-79-201B]

Electric and Hybrid Vehicle Research, Development, Demonstration and Production Loan Guarantees

AGENCY: Energy Department.

ACTION: Rule-related notice.

SUMMARY: The Department of Energy (DOE) hereby gives notice that applications for new projects will no longer be accepted under the Electric and Hybrid Vehicle (EHV) loan guarantee program. However, the Department will continue to evaluate pending applications and, if such applications are eligible, may issue loan guarantees under its continuing authority.

EFFECTIVE DATE: August 17, 1982.

FOR FURTHER INFORMATION CONTACT: As to EHV loan guarantee matters: Kenneth F. Barber, Office of Conservation & Renewable Energy, Department of Energy, Room GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-8034.

As to legal matters: James Renjilian, Office of the General Counsel, Department of Energy, Room 6F078, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-1900.

SUPPLEMENTARY INFORMATION: The EHV Loan Guarantee Program was established by the Electric and Hybrid Vehicle Research, Development, and Demonstration Act, Pub. L. No. 94-413, as amended by subsection 603(b) of the Department of Energy Act of 1978—Civilian Applications, Pub. L. No. 95-238, (the Act). Section 10 of the Act authorizes the Secretary of Energy to guarantee loans for the purposes of research and development, prototype development, construction of capital equipment, and initial operating expenses associated with the development and production of EHV's. The Act also established the Electric and Hybrid Vehicle Development Fund to carry out the EHV loan guarantee and interest assistance programs, including the payment of related administrative expenses.

The Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1981, Pub. L. 96-126, limits DOE authority to guarantee EHV loans and authorizes the Secretary to issue loan guarantees, subject to the availability of appropriated funds, which are limited to an aggregate amount not in excess of $16,000,000. All appropriated amounts to date ($2.49 million) have been obligated in loan default actions. Guarantees issued to date total $5.425 million.

Because of the difficult financial situation borrowers under the program are currently experiencing as a result of the general slowdown in automotive sales, and the limited amount of funds available for covering borrower obligations in the event of default, in order to ensure the availability of sufficient funds appropriated for the purpose of accommodating potential financial risks under the program, the Department considers it prudent to terminate its policy of accepting EHV loan guaranty applications. Accordingly, no further applications will be accepted for new projects under the EHV loan guarantee program at this time.

(Sec. 10 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act, Pub. L. No. 94-413, as amended by subsection 603(b) of the Department of Energy Act of 1978—Civilian Applications, Pub. L. No. 95-238)

Issued in Washington, D.C., August 9, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 82-22348 Filed 8-16-82; 8:45 am]

BILLING CODE 6450-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 124

Minority Small Business and Capital Ownership Development

AGENCY: Small Business Administration.

ACTION: Interim Emergency Rule.

SUMMARY: Recent litigation and administrative proceedings require this temporary alteration of the administration of the Small Business Administration's (SBA) Section 8(a) program. Under this program, SBA contracts with other agencies of the Federal Government for the performance of contracts for the procurement of goods and services and then enter into subcontracts with participants in the program for performance thereof. SBA is adopting as an interim measure the interim emergency regulation which appears below. This regulation will establish, upon publication in the **Federal Register**, a size standard for all present participants in the section 8(a) program based upon the concern's net worth and average net income after Federal income taxes for the preceding two years. The rule will be effective only for a period of 180 days from date of publication. The interim emergency rule does not change the present SBA size regulation governing admission to the section 8(a) program.

DATES: This regulation is effective August 17, 1982, and will remain effective for a period of 180 days.

ADDRESS COMMENTS TO: Robert L. Wright, Associate Administrator, Small Business Administration, 1441 L Street, N.W., Room 317, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Robert L. Wright, (202) 653-6407, same address as above.

SUPPLEMENTARY INFORMATION: Recent litigation and administrative proceedings require temporary alteration of the administration of the SBA's section 8(a) program. Under this program, SBA contracts with other agencies of the Federal Government for the performance of contracts for the procurement of goods and services and then enters into subcontracts with participants in the program for performance thereof. (See 15 U.S.C. 637(a) and generally 13 U.S.C. 124.1-1.) The litigation and administrative proceedings referred to above have, taken as a whole, found that SBA does not have the administrative discretion to award section 8(a) subcontracts to participants in the program who have been found other than small in a proper size review which has been conducted by SBA. See *In Re Computer Data Systems, Inc.*, Comp. Gen., B-205521 (June 16, 1982) and B-205521.3 and B-205521.4 (July 26, 1982); *Cal Western Packaging Corp.* v. *Collins*, No. 80-2548, ——— F. Supp. ——— (D.D.C., 1982); *Systems and Applied Sciences Corporation* v. *Sanders, et al., et cet.* Nos. 82-1834, 82-1966, and 82-1969, F. Supp. ——— ——— (D.D.C. 1982).

SBA is compelled to adhere to the holdings of the litigation and administrative proceedings referred to above. In this regard, it is SBA's intention to suspend contract assistance to firms properly found to be other than small and not to ignore the holdings in these matters. However, to do so in an abrupt and immediate manner would result in the immediate suspension of contractual assistance to a substantial number of participants in the 8(a) program.

This will have a two-fold adverse affect upon the orderly function of the program which SBA finds intolerable. First, it would impose economic

hardship upon a significant number of participants in the program who had reasonable expectations that an adverse size determination by SBA would not result in immediate suspension of contractual assistance. In this regard, SBA has taken the position in administering the program since January 1981 that size determinations with respect to participants in the program are advisory and not binding on the Agency's conduct of the program and the dispensing of contract assistance. (See 13 CFR 121.3–17.) In fact, SBA maintained that position in the litigation and administrative proceedings referred to above. As a result of that position, SBA has administered the program in a manner which permitted participants which exceed the applicable size standards to continue participation in the program notwithstanding such excess. A large number of such participants have committed a great deal of economic resources in contemplation of continued program participation and have incurred large amounts of financial obligations also based upon the continued participation in the program and the continued availability of contract support. SBA is convinced that to discontinue immediately the availability of contract support to them would be a grave inequity which would cause serious and undue financial hardship to those participants affected.

Secondly, an immediate suspension of contract assistance to the section 8(a) concerns which exceed SBA's size standards also would adversely affect the established procurement cycle of the procuring agencies for which the contracts are to be performed.

In this regard, because the above-cited proceedings were decided in the fourth quarter of the fiscal year, most decisions regarding goods or services to be procured in the fiscal year and the method of procurement had already been made. A number of procuring agencies had decided to purchase specialized goods and services from 8(a) contractors which, under the terms of two of the decisions, may not now receive 8(a) awards. Because of these plans, no actions were taken by the procuring agencies to advertise the requirements publicly.

Procurement by formal advertisement is a lengthy process. As stipulated by 41 U.S.C. 253, advertisement for bids must be made sufficiently in advance of the award of a contract to allow firms an adequate time to prepare their bids. Under 41 CFR 1–2.202–1(c), minimum bidding time for articles or services which are not standard commercial items as a general rule is 30 days. In addition, there must be time to circularize the procurements in the *Commerce Business Daily*, prepare the invitations for bids, and evaluate the bids after opening. This process, if begun immediately, could not be completed before the close of the fiscal year on September 30. Thus, the procuring agencies which had not advertised important procurements because of their expectations that the projects would be awarded under the 8(a) program would not be able to award contracts for those projects this fiscal year, and hence, under the Anti-Deficiency Act, would lose their funding for those projects.

For the above reasons, SBA is adopting as an interim measure the interim emergency regulation which appears below. This regulation will establish, upon its publication in the **Federal Register**, a size standard for all present participants in the section 8(a) program based upon the concern's net worth and average net income after Federal income taxes for the preceding two years. The rule will be effective only for a period of 180 days from date of publication.

The rule will make eligible for continued participation in the section 8(a) program all otherwise qualified concerns which qualify under present rules and which do not as of the date of publication have net worth in excess of $4,000,000 and average net income of $1,000,000 after Federal income taxes for the preceding two years. If the net worth of a concern already participating in the program exceeds $4,000,000, or if the average net income for the preceding two years exceeds $1,000,000 during the period of the effectiveness of this rule, and the concern exceeds the presently applicable size standard as described in 13 CFR 124.1–1(c)(1) and 13 CFR 121.3–8, the concern will be subject to termination proceedings to be conducted pursuant to section 8(a)(9) of the Small Business Act, 15 U.S.C. 637(a)(9), and 13 CFR 124.10, *et seq.* and suspension of contractual support. The interim emergency rule does not change the present SBA size regulation governing admission to the section 8(a) program.

This alternative regulation has been adopted after consideration of the litigation and administrative proceedings cited above. The characteristics of the affected 8(a) concerns most clearly indicative of the concerns' ability to continue economic viability are those of company net worth and average net income. Bearing in mind that the fundamental objective of the section 8(a) program is assisting in the development toward economic viability of economically and socially disadvantaged concerns, and recognizing the discretion granted to the Agency in 15 U.S.C. 632(a) to define "small" by using a variety of criteria, and further considering that other specialized programs of assistance offered by SBA define "small" by relying on net worth and average net income as the indicators of the concerns most in need of the program benefits, the Small Business Administration now adopts the criteria of net worth and income as an interim alternative definition of the size of participating section 8(a) concerns. For the effective period of this regulation, such firms as are defined by the interim emergency rule will be deemed to have continuing diminished capital and credit opportunities notwithstanding their number of employees or annual receipts. While good management and financial strategies may convert large annual receipts into financial statements attractive to capital and credit sources, without adequate net worths and net income, the sudden removal of eligibility for 8(a) government contracts and other program benefits to assure the availability of capital could leave the firms in a disadvantaged position.

This temporary standard accomplishes the following:

(1) Provides affected concerns the opportunity to receive contract assistance during the current contracting cycle. Many of these concerns have already expended significant sums in obtaining contracts, which would be unavailable to them without this measure.

(2) Allows SBA a period during which regulations which conform to the recent decisions cited above will be developed.

(3) Prevents disruption of the governmental procurement process as explained above.

(4) Provides affected concerns the opportunity for an orderly transition from the program.

(5) Provides concerns which will no longer be eligible to participate in the program upon expiration of this rule the opportunity to make plans for contracting in the future on other bases.

(6) Permits affected concerns to continue business operations in an uninterrupted fashion which will permit orderly rearrangement of financial obligations incurred in reliance on program participation.

(7) Provides for the continued employment of the workforces of the affected socially and economically disadvantaged concerns.

For the above-stated reasons, the Administrator of SBA has determined in accordance with Title 5, Section 553(b)(3)(B) that good cause exists for the immediate adoption of this rule. The Administrator further has determined for the reasons stated above that notice and public comment procedure is impractical and contrary to the public interest. Accordingly, this interim emergency rule is adopted, effective immediately.

SBA considers this interim emergency rule to be an emergency rule within the meaning of section 8 of Executive Order 12291, and, because of the need for immediate effectiveness indicated above, it is not practical to follow the procedures required by that Order regarding the publication of the rules. Further, for the reasons mentioned above, this rule is being published in response to an emergency that makes timely compliance with section 604 of title 5 of the United States Code impracticable. SBA hereby delays completion of those provisions according to title 5, section 608, 5 U.S.C. 608(b).

List of Subjects in 13 CFR Part 124

Administrative practice and procedure, Government procurement, Minority businesses, Surety bonds, and Technical assistance.

Accordingly, pursuant to 15 U.S.C. 632(a) and 634(b)(6), 13 CFR 124.1–1(c)(1) is revised to read as follows:

§ 124.1–1 [Amended]

* * * * *

(c) * * *

(1) Small Business Concern. In order to be eligible to enter the section 8(a) program, an applicant concern must qualify as a small business concern as defined for purposes of Government procurement in § 121.3–8 of the SBA Rules and Regulations. The particular size standard to be applied shall be based on the principal activity of the applicant concern. In order to be eligible to continue to participate in the section 8(a) program, the section 8(a) concern must qualify as a small business concern as defined for the purposes of Government procurement in § 121.3–8 of the SBA Rules and Regulations or must not have net worth in excess of $4,000,000 and average net income, after Federal income taxes, for the preceding two fiscal years in excess of $1,000,000. This regulation shall lapse and be of no effect 180 days after the date of its publication.

Dated: August 12, 1982.

Peter G. Terpeluk,

Acting Administrator.

[FR Doc. 82396 Filed 8–13–82; 9:57 am]

BILLING CODE 8025–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 81F–0134]

Secondary Direct Food Additives Permitted in Food for Human Consumption; 2,2-Dibromo-3-Nitrilopropionamide

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 2,2-dibromo-3-nitrilopropionamide for the control of microorganisms in cane-sugar and/or beet-sugar mills. This action is in response to a petition filed by the Dow Chemical Co.

DATES: Effective August 17, 1982, objections by September 16, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 15, 1981 (46 FR 26868), FDA announced that a petition (FAP 1A3555) had been filed by the Dow Chemical Co., Midland, MI 48640, proposing that § 173.320 *Chemicals for controlling microorganisms in cane-sugar and beet-sugar mills* (21 CFR 173.320) be amended to provide for the safe use of 2,2-dibromo-3-nitrilopropionamide for the control of microorganisms in cane-sugar and/or beet-sugar mills.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that § 173.320 should be amended as set forth below. The agency also concludes on its own initiative that §173.320 should be revised to clarify where the chemicals are applied in the sugar mill system. Because this latter change simply more accurately reflects current industry practice and does not expand the use of the additive, FDA believes that notice and comment rulemaking on this point is not required.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the supporting evidence may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives, Food processing aids.

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 173 is amended in § 173.320 by revising the introductory paragraph, the introductory text in paragraph (b), and by adding new paragraph (b)(4), to read as follows:

§ 173.320 Chemicals for controlling microorganisms in cane-sugar and beet-sugar mills.

Agents for controlling microorganisms in cane-sugar and beet-sugar mills may be safely used in accordance with the following conditions:

* * * * *

(b) They are applied to the sugar mill grinding, crusher and/or diffuser systems in one of the combinations listed in paragraph (b) (1), (2), or (3) of this section or as a single agent listed in paragraph (b)(4) of this section. Quantities of the individual additives in parts per million are expressed in terms of the weight of the raw cane or raw beets.

* * * * *

(4) Single additive for cane-sugar mills and beet-sugar mills.

	Parts per million
2,2-Dibromo-3-nitrilopropionamide (CAS Reg. No. 10222-01-2). *Limitations:* By-product molasses, bagasse, and pulp containing residues of 2,2-dibromo-3-nitrilopropionamide are not authorized for use in animal feed..	Not more than 10.0 and not less than 2.0.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 16, 1982 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 17, 1982.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 11, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-22335 Filed 8-16-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Amoxicillin Trihydrate Boluses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Beecham Laboratories providing for the oral use of amoxicillin trihydrate boluses for treatment of bacterial enteritis in non-ruminating calves.

EFFECTIVE DATE: August 17, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Carnevale, Bureau of Veterinary Medicine (HFV–125), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1788.

SUPPLEMENTARY INFORMATION: Beecham Laboratories, Division of Beecham, Inc., Bristol, TN 37620, filed NADA 55–087 providing for use of amoxicillin trihydrate boluses for treating bacterial enteritis when due to amoxicillin susceptible *Escherichia coli* organisms in non-ruminating calves.

The firm submitted data from adequate and well-controlled studies demonstrating the drug's effectiveness. Amoxicillin toxicity and tissue residue depletion studies demonstrate animal and consumer safety when the drug is used in accordance with label directions. Additionally, the agency has validated and approved for regulatory surveillance purposes an analytical method developed by Beecham that is specific for amoxicillin residues in beef tissues. Accordingly, the NADA is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption submitted under 21 CFR 25.1(f)(1)(iii), may be seen in the Dockets Management Branch (address above).

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 540

Animal drugs, Antibiotics, penicillin.

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 540 is amended by adding new § 540.103e to read as follows:

§ 540.103e Amoxicillin trihydrate boluses.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Amoxicillin trihydrate boluses are composed of amoxicillin trihydrate with or without one or more suitable and harmless diluents, fillers, binder-disintegrators, pigments, and lubricants. Each bolus contains the equivalent of 400 milligrams of amoxicillin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the amount of amoxicillin that it is represented to contain. The moisture content is not more than 7.5 percent. The amoxicillin trihydrate used conforms to the requirements of § 440.3(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of paragraph (c) of this section and § 510.55 of this chapter, and in addition, this drug shall be labeled "amoxicillin boluses, veterinary."

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 514.50 of this chapter, each such request shall contain:

(i) Results of test and assays on:

(*a*) The amoxicillin trihydrate used in making the batch for potency, safety, moisture, pH, amoxicillin content, concordance, crystallinity, and identity.

(*b*) The batch for potency and moisture.

(ii) Samples required.

(*a*) The amoxicillin trihydrate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 36 boluses.

(b) *Tests and methods of assay.*—(1) *Potency.* Assay for potency by either of the following methods; however, the results obtained from the iodometric assay shall be conclusive:

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place a representative number of boluses into a high-speed blender jar containing sufficient 0.1M potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 3 to the reference concentration of approximately 0.1 microgram of amoxicillin per milliliter.

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, preparing the sample as follows: Place a representative number of boluses in a high-speed glass blender jar and add sufficient distilled water to give a convenient concentration. Blend for 3 to 5 minutes. Further dilute an aliqout with distilled water to the prescribed concentration.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(c) *Conditions of marketing.*—(1) *Specifications.* The drug conforms to the requirements of paragraph (a) of this section.

(2) *Sponsor.* See No. 000029 in § 510.600(c) of this chapter.

(3) *Related tolerances.* See § 556.38 of this chapter.

(4) *Conditions of use in non-ruminating calves.*—(i) *Amount.* 400 milligrams per 100 pounds of body weight twice daily.

(ii) *Indications for use.* For the treatment of bacterial enteritis when due to susceptible *Escherichia coli* in non-ruminating calves.

(iii) *Limitations.* For oral use in non-ruminating calves only, not for use in other animals which are raised for food production. Treatment should be continued for 48 hours after all symptoms have subsided but not to exceed 5 days. Do not slaughter animals during treatment or for 20 days after the latest treatment. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. August 17, 1982.

(Sec. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n)))

Dated: August 11, 1982

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82–22341 Filed 8–16–82; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Parts 540 and 556

Penicillin Antibiotic Drugs for Animal Use; Tolerances for Residues of New Animal Drugs in Food; Amoxicillin Trihydrate Soluble Powder

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Beecham Laboratories providing for administration of amoxicillin trihydrate soluble powder as a drench or in milk for treatment of bacterial enteritis in non-ruminating calves. The regulations are also amended to establish a tolerance for amoxicillin residues in edible cattle tissues.

EFFECTIVE DATE: August 17, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Carnevale, Bureau of Veterinary Medicine (HFV–125), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. 301–443–1788.

SUPPLEMENTARY INFORMATION: Beecham Laboratories, Division of Beecham, Inc., Bristol, TN 37620, filed NADA 55–088 providing for the use of amoxicillin trihydrate soluble powder for treating bacterial enteritis when due to amoxicillin susceptible *Escherichia coli* organisms in non-ruminating calves.

The firm submitted data from well-controlled clinical field trials demonstrating the drug's effectiveness. Amoxicillin toxicity and tissue residue depletion studies demonstrate animal and consumer safety when the drug is used in accordance with label directions. Additionally, the agency has validated and approved for regulatory surveillance purposes an analytical method developed by Beecham that is specific for amoxicillin residues in beef tissues. Accordingly, the NADA is approved and the regulations are amended to reflect the approval and to establish a tolerance of 0.01 part per million for amoxicillin residues in edible cattle tissues.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption submitted under 21 CFR 25.1(f)(1)(iii), may be seen in the Dockets Management Branch (address above).

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects

21 CFR Part 540

Animal drugs, Antibiotics, penicillin.

21 CFR Part 556

Animal drugs, Foods, Residues.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 540 and 556 are amended as follows:

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

1. Part 540 is amended by adding new § 540.103d to read as follows:

§ 540.103d Amoxicillin trihydrate soluble powder.

(a) *Requirements for certification.*—(1) *Standards of identity, strength, quality, and purity.* Amoxicillin trihydrate soluble powder is a dry mixture of amoxicillin trihydrate with one or more suitable and harmless diluents and stabilizing agents. Each gram contains an amount of amoxicillin trihydrate equivalent to 115.4 milligrams of amoxicillin. Its potency is satisfactory if it contains not less than 90 percent and not more than 120 percent of the number of milligrams of amoxicillin it is represented to contain. Its moisture content is not more than 5.0 percent. Its pH in an aqueous solution containing 2 milligrams of amoxicillin per milliliter is not less than 3.5 and not more than 6.0. The amoxicillin trihydrate used conforms to the standards prescribed by § 440.3(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of paragraph (c) of this section and

§ 510.55 of this chapter. In addition, this drug shall be labeled "amoxicillin soluble powder, veterinary."

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 514.50 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The amoxicillin trihydrate used in making the batch for potency, safety, moisture, pH, amoxicillin content, concordance, crystallinity, and identity.

(*b*) The batch for potency, moisture, and pH.

(ii) Samples required:

(*a*) The amoxicillin trihydrate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of five immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Assay for potency by either of the following methods; however, the results obtained from the iodometric assay shall be conclusive:

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample, usually 1 gram, in sufficient 0.1M potassium phosphate buffer, pH 8.0 (solution 3) to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 3 to the reference concentration of 0.1 microgram of amoxicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, preparing the sample as follows: Dissolve an accurately weighed sample, usually 1 gram, in sufficient distilled water to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with distilled water to the prescribed concentration.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 20 milligrams of amoxicillin per milliliter.

(c) *Conditions of marketing.*—(1) *Specifications.* The drug conforms to the requirements of paragraph (a) of this section.

(2) *Sponsor.* See No. 000029 in § 510.600(c) of this chapter.

(3) *Related tolerances.* See § 556.38 of this chapter.

(4) *Conditions of use in non-ruminating calves.*—(i) *Amount.* 400 milligrams per 100 pounds of body weight twice daily.

(ii) *Indications for use.* For the treatment of bacterial enteritis when due to susceptible *Escherichia coli* in non-ruminating calves.

(iii) *Limitations.* Administer by drench or by mixing in milk. Treatment should be continued for 48 hours after all symptoms have subsided but not to exceed 5 days. For use in non-ruminating calves only, not for use in other animals which are raised for food production. Do not slaughter animals during treatment or for 20 days after the latest treatment. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOODS

2. Part 556 is amended by adding new § 556.38 to read as follows:

§ 556.38 Amoxicillin.

A tolerance of 0.01 part per million is established for negligible residues of amoxicillin in the uncooked edible tissues of cattle.

Effective date. August 17, 1982.

(Sec. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n)).)

Dated: August 11, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82–22343 Filed 8–16–82; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two supplemental new animal drug applications (NADA's) filed by Walnut Grove Products providing for safe and effective use of a 10-gram-per-pound tylosin premix for making complete swine, beef cattle, and chicken feeds and a 0.8-gram-per-pound premix for making complete swine feeds.

EFFECTIVE DATE: August 17, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Walnut Grove Products, Division of W. R. Grace & Co., 201 Linn St., Atlantic, IA 50022, is sponsor of two supplements to NADA 98–595. One supplemental NADA provides for use of premixes containing 10 grams of tylosin (as tylosin phosphate) per pound for making complete feeds for swine, beef cattle, and chickens. The swine feed is used for increased rate of weight gain and improved feed efficiency, for prevention, treatment, and control of swine dysentery, and to maintain weight gains and feed efficiency in the presence of atropic rhinitis; the beef cattle feed for reduction of incidence of certain liver abscesses; the chicken feed for increased rate of weight gain and improved feed efficiency; and the laying chicken feed for improved feed efficiency. The other supplement provides for use of a 0.8-gram-per-pound tylosin premix for making complete swine feeds for increased rate of weight gain and improved feed efficiency.

Approval of this NADA relies upon safety and effectiveness data contained in Elanco Products Co.'s approved NADA 12–491. Elanco has authorized use of the data in NADA 12–491 to support approval of this application. This approval does not change the approved use of the drug. Consequently, approval of the supplemental NADA's poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), these are Category II supplemental approvals which do not require reevaluation of the safety and effectiveness data in NADA 12–491.

The supplements are approved, and the regulations are amended accordingly. This adds to the firm's existing approval for use of a 4-gram-per-pround tylosin premix for making swine feeds.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Comestic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.625 is amended by revising paragraph (b)(28) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(28) To 034139: 0.8 gram and 4 grams per pound; paragraph (f)(1)(vi)(*a*) of this section; 10 grams per pound, paragraph (f)(1)(i), (iii), (iv), and (vi) of this section.

* * * * *

Effective date. August 17, 1982.

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

Dated: August 10, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-22336 Filed 8-16-82; 8:45 a.m.]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-82-1004]

Change to HUD 4930.2 Intermediate Minimum Property Standard (IMPS) Supplement for Solar Heating and Domestic Hot Water Systems

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule; incorporation by reference.

SUMMARY: This rule is made to provide an updating, clarification and improvement of requirements contained in HUD Handbook 4930.2, IMPS Supplement concerning solar heating and domestic hot water systems.

DATE: Comments due: October 18, 1982.

EFFECTIVE DATE: October 5, 1982.

The incorporation by reference of the publication listed in this document is approved by the Director of the Federal Register as of October 5, 1982.

ADDRESS: Interested persons are invited to submit comments regarding this Rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying during regular business hours at the above address. The interim rule may be changed on the basis of comments received.

FOR FURTHER INFORMATION CONTACT: Mervin W. Dizenfeld, Construction Standards Division, Office of Manufactured Housing and Construction Standards, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone (202) 755-6590. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: HUD Minimum Property Standards (MPS) are published in the MPS for One- and Two-Family Dwellings 4900.1, MPS for Multifamily Housing 4910.1, and MPS for Care-Type Housing 4920.1. The IMPS Supplement 4930.2 is prepared as a supplement to the other MPS and deals only with aspects of planning and design that are different from conventional housing by reason of the solar systems under consideration. To the greatest extent possible they are based on current state-of-the-art practice and on nationally recognized standards, including the MPS and the HUD "Interim Performance Criteria for Solar Heating and Combined Heating/Cooling Systems and Dwellings."

In adopting and implementing these MPS, HUD and its predecessor agencies have relied upon general statutory authority. This authority exists for multifamily rental projects as well as single-family home mortgages. Under Section 203(a) of the National Housing Act of 1934 (Pub. L. No. 73-479, 12 U.S.C. 1701 *et seq.*, 148 Stat. 1246), HUD is authorized to insure certain mortgages for single family homes "upon such terms as the Secretary may prescribe." Section 203(c) requires the Secretary to find "that the project with respect to which the mortgage is executed is economically sound." This economic soundness criterion applies also to newly constructed mutifamily rental units insured under Section 207. The National Housing Act requires that the property or project insured under Section 221 "shall comply with such standards and conditions as the Secretary may prescribe to establish the acceptability of such property for mortgage insurance." Further, the Housing Act of 1949 requires that HUD exercise its authority in such a manner as would assist the production of housing of sound standards of design, construction, livability, and size for adequate family life; as well as the reduction of the costs of housing without sacrifice of such sound standards; the use of new designs, materials, techniques and standardized dimensions and methods assembly; and finally, the development of well planned residential neighborhoods.

Programs providing housing for low-income families have different requirements but also provide general authority for the MPS. The Housing Act of 1937, as amended, requires that contributions made to public housing authorities must be set with reference to "various types and sizes" of units "suitable" for the assisted families, taking into account safety, health, economy, energy conservation, neighborhood architectural standards, and other factors. Units constructed and assisted under Section 8 of the National Housing Act also must be "suitable" for the families assisted and meet the "decent, safe and sanitary" criteria. Through the Housing and Community Development Act of 1974, Congress also added a new Section 526 to the National Housing Act, specifying the MPS as the mechanism through which the Secretary is to promote energy conservation in housing. That provision reads, in part: "To the maximum extent feasible the Secretary of Housing and Urban Development shall promote the use of energy saving techniques through minimum property standards established by him for newly constructed residential housing subject to mortgages insured under this Act."

Thus, HUD is statutorily charged with the promotion of housing of sound design and construction adequate for family life. The MPS have been an expression of this responsibility and are an administrative device for achieving these ends.

The MPS apply to all new residential construction under Departmental programs. While these are the only minimum standards for insured housing, assisted housing must sometimes comply with other program standards as well. The type of structure determines whether the housing is covered by the MPS for One- and Two-Family Dwellings, Multifamily Housing, or Care-Type Housing. Row houses and attached dwellings are covered under the MPS for One- and Two-Family Dwellings.

The IMPS Supplement 4930.2. describes the aspects of planning and design that are different from conventional housing by reason of the solar system under consideration. These standards apply to both one- and two-family dwellings and multifamily housing. This revision to the IMPS Supplement 4930.2 provides an updating, clarification and improvement of requirements. The changes are primarily technical, resulting from information gained through the application of the original standard for solar installations. The use and application of these revised standards is now expected to create any significant departure from current practice, since the industry is not more sophisticated and has refined its methodology in the five years since HUD published the original standards. This revision is intended to provide improved guidance and state-of-the-art requirements to achieve more satisfactory final results in solar installations for space heating and domestic hot water systems.

In devising and promulgating these standards we have been cognizant of the Presidential Task Force on Regulatory Relief's recommendation for a comprehensive review of all MPS for the purpose of allowing alternative government programs and private market forces to achieve many of the objectives of the MPS. We are also aware of the National Institute of Building Sciences (NIBS) recommendations for HUD to initiate a comprehensive and rational process to phase out the MPS in favor of reliance on state and/or local authority to regulate the health and safety aspects of HUD insured housing and on free market forces to establish acceptable performance levels for livability and marketability. Also, we have taken into consideration the HUD Task Force on Housing Cost's recommendations for removal of unjustifiably costly technical and design requirements from the MPS.

However, it is our opinion that these revised IMPS contain the minimum information needed for the proper functioning of solar heating and domestic hot water systems. There does not presently exist a suitable alternative to these IMPS as revised. At such time as satisfactory model codes or industry standards are available for solar heating and domestic hot water systems, we shall consider further revision or possible phase out of these IMPS.

Notice of all substantive changes in the MPS are required by 24 CFR 200.933 to be published in the **Federal Register** using the same procedure as for the publication of regulations. The proposed changes to the MPS 4930.2 are available for examination in all HUD Field Offices and in Headquarters Room 6170, Office of Manufactured Housing and Construction Standards, Construction Standards Division, at the above address during regular business hours. The subject matter of this rulemaking action relates to loans and is therefore exempt from the notice and public comment requirements of Section 553 of the Administrative Procedure Act. As a matter of policy, the Department submits many rulemaking actions dealing with such subject matter to public comment, either before or after effectiveness of the action, notwithstanding the statutory exemption.

The Secretary has determined that notice and public procedure thereon are impracticable and contrary to the public interest and that good cause exists for making this rule effective immediately after publication because of the nature of the changes and the urgent need for them. The materials and techniques involved in these changes influence safety, durability, cost reduction and fossil fuel energy conservation in the use of solar energy. Need for these improvements makes imperative the earliest possible promulgation of this rule. Therefore, this rule is being published as an interim rule to become effective before publication in final form. However, the Department is providing a 60 day period for public comment. All relevant comments and suggestions will be considered in the development of a final rule on this subject.

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk at the above address.

This Rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities.

This rule was listed as Item (C)45 (H-6-80) under the Office of Housing in the Department's Semiannual Agenda of Regulations published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs—housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum Property Standards, Incorporation by reference.

PART 200—INTRODUCTION

Accordingly, 24 CFR Part 200, Subpart S, is amended by revising § 200.929(b)(4) to read as follows:

§ 200.929 Description and identification of Minimum Property Standards.

* * * * *

(b) *Identification.* Minimum Property Standards have been published in four volumes: * * *

(4) Intermediate Minimum Property Standards (IMPS) Supplement for Solar Heating and Domestic Hot Water Systems, 4930.2, as revised by revision No. 1.

This volume supplements the volumes listed in (b)(1), (b)(2) and (b)(3) of this section and deals only with aspects of planning and design that are different from conventional housing by reason of the solar systems under consideration.

(Sec. 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)); Title II of the National Housing Act, 12. U.S.C. 1707, et. seq.)

Dated: July 26, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 82-22354 Filed 8-16-82; 8:45 am]

BILLING CODE 4210-27-M

Office of Assistant Secretary for Housing—Federal Housing Commissioner (Federal Housing Administration)

24 CFR Parts 203, 205, 207, 213, 220, 221, 232, 234, 235, 236, 241, 242, and 244

[Docket No. R-82-1018]

Mortgage Insurance Loans; Changes in Interest Rates

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This change in the regulations decreases the HUD/FHA interest rates on insured loans. This action by HUD is designed to bring the maximum interest rates into line with other competitive market rates and help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: August 9, 1982.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202-426-4667).

SUPPLEMENTARY INFORMATION: The following amendments have been made to this chapter to decrease the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on HUD/FHA insured home mortgage insurance programs has been lowered from 15.50 percent to 15.00 percent for level payment (including operative builder) and graduated payment home loan programs (GPM). For insured multifamily project mortgage loan programs, the maximum interest rate has been lowered from 16.50 percent to 16.00 percent. The maximum interest rate for multifamily construction and Title X land development loans has been lowered from 19.00 percent to 17.00 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709-1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

This is a procedural and administrative determination as set forth in the statutes and as such does not require a determination of environmental applicability.

Mortgage insurance.

Accordingly, Chapter II is amended as follows:

List of Subjects in 24 CFR Parts 203, 205, 207, 213, 220, 221, 232, 234, 235, 236, 241, 242, and 244

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

Subpart A—Eligibility Requirements

1. Section 203.20 paragraph (a) is revised to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 15.00 percent per annum, except that where an application for commitment was received by the Secretary before August 9, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

2. Section 203.45 paragraph (b) is revised to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 15.00 percent per annum, except that where an application for commitment was received by the Secretary before August 9, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

3. Section 203.46 paragraph (c) is revised to read as follows:

§ 203.46 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 15.00 percent per annum, except that where an application for commitment was received by the Secretary before August 9, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT

Subpart A—Eligibility Requirements

4. Section 205.50 is revised to read as follows:

§ 205.50 Maximum interest rate.

Effective on or after August 9, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 17.00 percent per annum. Applications for conditional or firm commitments received on or after August 9, 1982 will be processed at the 17.00 percent rate, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

5. Section 207.7 paragraph (a) is revised to read as follows:

§ 207.7 Maximum interest rate.

(a) Effective on or after August 9, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 16.00 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after August 9, 1982 will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be

processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Projects

6. Section 213.10 paragraph (a) is revised to read as follows:

§ 213.10 Maximum interest rate.

(a) Effective on or after August 9, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 16.00 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after August 9, 1982 will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

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

7. Section 213.511 paragraph (a) is revised to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 15.00 percent per annum, except that where an application for commitment was received by the Secretary before August 9, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart C—Eligibility Requirements—Projects

8. Section 220.576 paragraph (a) is revised to read as follows:

§ 220.576 Maximum interest rate.

(a) Effective on or after August 9, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 16.00 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after August 9, 1982, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Moderate Income Projects

9. Section 221.518 paragraph (a) is revised to read as follows:

§ 221.518 Maximum interest rate.

(a) Effective on or after August 9, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 16.00 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after August 9, 1982 will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

10. Section 232.29 paragraph (a) is revised to read as follows:

§ 232.29 Maximum interest rate.

(a) Effective on or after August 9, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 16.00 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after August 9, 1982 will be processed at the rates specifed above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

Subpart C—Eligibility Requirement—Supplemental Loans To Finance Purchase and Installation of Fire Safety Equipment

11. Section 232.560 paragraph (a) is revised to read as follows:

§ 232.560 Maximum interest rate.

(a) On or after August 9, 1982, the loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 16.00

percent per annum, with the exception of applications submitted pursuant to feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

12. Section 234.29 paragraph (a) is revised to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 15.00 percent per annum, except that where an application for commitment was received by the Secretary before August 9, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

13. Section 234.75 paragraph (b) is revised to read as follows:

§ 234.75 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 15.00 percent per annum, except that where an application for commitment was received by the Secretary before August 9, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

14. Section 234.76 paragraph (c) is revised to read as follows:

§ 234.76 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 15.00 percent per annum, except that where an application for commitment was received by the Secretary before August 9, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Subpart D—Eligibility Requirements—Rehabilitation Sales Projects

15. Section 235.540 paragraph (a) is revised to read as follows:

§ 235.540 Maximum interest rate.

(a) On or after August 9, 1982, the loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 16.00 percent per annum, with the exception of applications submitted pursuant to feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previoulsy agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

Subpart A—Eligibility Requirements for Mortgage Insurance

16. Section 236.15 paragraph (a) is revised to read as follows:

§ 236.15 Maximum interest rate.

(a) Effective on or after August 9, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 16.00 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after August 9, 1982, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

Subpart A—Eligibility Requirements

17. Section 241.75 is revised to read as follows:

§ 241.75 Maximum interest rate.

(a) Effective on or after August 9, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 16.00 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after August 9, 1982, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

Subpart A—Eligibility Requirements

18. Section 242.33 paragraph (a) is revised to read as follows:

§ 242.33 Maximum interest rate.

(a) Effective on or after August 9, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 16.00 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after August 9, 1982, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES

Subpart A—Eligibility Requirements

19. Section 244.45 paragraph (a) is revised to read as follows:

§ 244.45 Maximum interest rate.

(a) Effective on or after August 9, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 16.00 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after August 9, 1982, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximium rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

(Section 3(a), 82, Stat. 113; 12 U.S.C. 1709–1; Section 7 of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Issued at Washington, D.C., August 6, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 82-22187 Filed 8-16-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 6010.8-R, Amdt. No. 16]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Amendment on Beneficiary Signature Requirement

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This rule amends the comprehensive Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Regulation, DoD 6010.8–R (32 CFR 199), to allow a spouse, parent or guardian to sign the CHAMPUS claim form for a beneficiary who is 18 years or older and establishes the circumstances under which an exception to the requirement for original signatures on CHAMPUS claim forms can be granted. The original requirement frequently resulted in delays in claims payment. Relaxation of this beneficiary signature requirement would reduce the number of claims returned to the beneficiary and speed payment.

EFFECTIVE DATE: August 17, 1982.

ADDRESS: Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Policy Division, Aurora, Colorado 80045.

FOR FURTHER INFORMATION CONTACT: Charles M. Gallegos, Chief, Policy Branch, OCHAMPUS, telephone (303) 361–8608.

SUPPLEMENTARY INFORMATION: In FR Doc. 82–7353, appearing in the Federal Register on March 18, 1982 (47 FR 11707), the Office of the Secretary of Defense published a proposed amendment to rule regarding a revision to the language of the CHAMPUS Regulation to relax the beneficiary signature requirement. No comments were received. Only minor changes have been made which do not necessitate reissuance as a proposal. It has been expanded to include noninstitutional providers as well as institutional providers.

Section 199.13 of this Part requires a beneficiary who is 18 years or older to sign the claim form.

This requirement is based, in part, on the following:

1. A beneficiary, 18 years or older, can best confirm that the claimed medical care was personally received.

2. According to the Privacy Act of 1974, only the beneficiary may authorize release of his or her medical care information.

We receive many claims signed by a spouse, parent or guardian for a beneficiary who is 18 years or older.

This results in claims being returned for beneficiary signature. This amendment would allow these claims to be processed if no additional information, or release of medical information, is required.

A second purpose of this amendment involves participating physicians who have only limited or no contact with the beneficiary. Radiologists, pathologists, neurologists, and cardiologists who bill for laboratory and diagnostic tests and test interpretations, and anesthesiologists, have difficulty getting beneficiary signatures on their claims. For these claims, this amendment permits the beneficiary signature on the institutional claim to satisfy the signature requirement.

In addition, many providers use automated billing procedures, both computer generated claim forms, and in some instances, electronic transmission of claims. Currently these providers must handle CHAMPUS claims separately to get the beneficiary's signature. This amendment would eliminate separate handling of CHAMPUS claims and would allow the establishment of CHAMPUS approved signature-on-file and alternate claims submission procedures. The beneficiary's signature will still be required on a CHAMPUS claim form in all instances where additional information is necessary to process the claim or release of medical information has been requested.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, Military personnel.

Accordingly, 32 CFR, Chapter I is amended reading as follows:

PART 199—IMPLEMENTATION OF THE CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

Section 199.13 is amended by revising the introductory text of paragraph (c)(1) and paragraph (c)(1)(iii) to read as follows and adding a new paragraph (c)(1)(v):

§ 199.13 Claims submission, review and payment.

* * * * *

(c) *Signature on CHAMPUS Claim Form.*—(1) *Beneficiary Signature.* CHAMPUS claim forms must be signed by the beneficiary except under the conditions identified in paragraph (c)(1)(v) below. The parent or guardian may sign for any beneficiary under 18 years.

* * * * *

(iii) *Authorization to Obtain or Release Information.* Prior to requesting additional information necessary to process a claim or releasing medical information, the signature of the beneficiary who is 18 years or older must be recorded on or obtained on the CHAMPUS claim form or on a separate release form. The signature of the beneficiary, parent or guardian will be required when the beneficiary is under 18 years.

* * * * *

(v) *Exceptions to Beneficiary Signature Requirement.*

(A) Except as required by § 199.13(c)(1)(iii), the signature of a spouse, parent or guardian will be accepted on a claim submitted for a beneficiary who is 18 years or older.

(B) When the institutional provider obtains the signature of the beneficiary (or the signature of the parent or guardian when the beneficiary is under 18 years) on a CHAMPUS claim form at admission, the following participating claims may be submitted without the beneficiary's signature.

(1) Claims for laboratory and diagnostic tests and test interpretations from radiologists, pathologists, neurologists, and cardiologists.

(2) Claims from anesthesiologists.

(C) Claims filed by providers using CHAMPUS-approved signature-on-file and claims submission procedures.

* * * * *

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

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 11, 1982.

[FR Doc. 82-22271 Filed 8-16-82; 8:45 am]

BILLING CODE 3810-01-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Part 901

Bylaws of the Corporation

Correction

In FR Doc. 82-21536, appearing on page 34536 in the issue of Tuesday, August 10, 1982, in the second column, the second line of the amendatory paragraph under the heading **§ 901.4 [AMENDED]** should have read, "redesignating § 901.4(b) as § 901.4(b)(1)" and the sixth line of paragraph (b)(2) should have read, "United States in writing to that effect and".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122, 260, 264, and 265

[SW H-FRC 2191-2]

Hazardous Waste Management System, Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities; and EPA Administered Permit Programs; Public Meetings

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Meetings.

SUMMARY: The Environmental Protection Agency (EPA) will hold four one-day public meetings to brief the public on its July 26, 1982 (47 FR 32274–32388), RCRA standards applicable to owners and operators of new and existing hazardous waste land disposal facilities and the corresponding procedures for permit applications. In addition, EPA will discuss the development of its regulatory reform for the RCRA program.

DATES: The public meetings will be held on September 15, 1982 in Washington, D.C.; September 17, 1982, in San Francisco, CA; September 30, 1982 in Houston, TX and October 6, 1982 in Chicago, IL. The meetings will begin at 9:00 A.M. and run until 5:00 P.M., unless concluded earlier. Registration will begin at 8:30 a.m.

ADDRESSES: The meetings will be held in the following locations:

Department of Health & Human Services, Main Auditorium 330 Independence Avenue, SW., Washington, D.C.

Golden Gate University, Second Floor Auditorium, 536 Mission Street, San Francisco, California

Stouffers'—Greenway Plaza Hotel, Greenway 2; 6 Greenway Plaza East, Houston, Texas, (713) 629–1200

The Palmer House Hotel, Monroe Ballroom, 17 East Monroe, Chicago, Illinois, (312) 726–7500

For the convenience of those attending the meetings, guest rooms have been set aside at the respective hotels in Houston and Chicago. Reservation should be made directly with the hotel; identify with the EPA meeting for the special room rates of $55.00 single/double in Houston, and $49.00 single, $59.00 double in Chicago. For the Washington, D.C. and San Francisco meetings, attendees will need to make their own hotel arrangements.

FOR FURTHER INFORMATION CONTACT: For information on the public meetings contact Mrs. Geraldine Wyer, Public Participation Officer, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; telephone (202) 382–4492. Single copies of the July 26, 1982, RCRA land disposal standards can be obtained by calling the RCRA/Superfund Hotline, (800) 424–9346, or in Washington, D.C., 382–3000.

SUPPLEMENTARY INFORMATION: Subtitle C of The Resource Conservation and Recovery Act of 1976 (RCRA) requires EPA to establish a national regulatory program to ensure that hazardous wastes are managed in a manner which assures protection of human health and the environment from the time the wastes are generated until their eventual destruction or final disposition. To this end, the Act requires regulations governing generation and transport of hazardous waste and, more specifically, standards applicable to owners and operators of new and existing hazardous waste land disposal facilities and procedures for permit applications

EPA has issued a series of regulations under RCRA dealing with hazardous waste. On May 19, 1980, the Agency issued a comprehensive set of standards for generators and transporters of hazardous waste, and "Interim status standards" for existing hazardous waste management facilities. RCRA provides that owners and operators of facilities in existence on November 19, 1980, may operate under "interim status" until a RCRA permit is issued to them. On subsequent dates, EPA has set standards for the issuance of RCRA permits to treatment and storage facilities.

On July 26, 1982, the Agency issued standards to be used in issuing RCRA permits for new and existing land disposal facilities, thus essentially completing the core of the RCRA hazardous waste management program.

The regulations promulgated on July 26, apply to all landfills, surface impoundments, waste piles, and land treatment units used to treat, store, or dispose of hazardous waste. They apply to both new and existing facilities and distinguish between these facilities in appropriate circumstances.

The regulations consist primarily of two sets of performance standards. One is a set of design and operating standards separately tailored to each of the four types of facilities covered by the regulations. The other is a single set of groundwater monitoring and response requirements applicable to each of these facilities. The former is intended to ensure that owners or operators minimize the formation of leachate and the migration of leachate to the adjacent subsurface soils and to groundwater and surface waters. The latter is intended to ensure that owners or operators detect any groundwater contamination, and perform corrective action when necessary. Thus, these two sets of standards are complementary.

For land treatment units, the design and operating standards require that hazardous constituents be degraded, transformed, or immobilized within the treatment zone. For landfills, piles, and surface impoundments, any treatment that occurs is usually not instantaneous and is often incomplete. Therefore, for these units, the design and operating standards implement a liquids management strategy that has two goals: (1) Minimize leachate generation at the facility, and (2) remove leachate generated to minimize its chance of entering the subsurface environment. Liner and leachate collection requirements apply only to new units.

The groundwater protection requirements establish a three-stage program to detect, evaluate, and correct groundwater contamination. These requirements apply to new and existing units. The program must be complied with throughout the active life of the facility and for 30 years after closure.

Both the design and operating standards and the groundwater monitoring and response program will be implemented through the issuance of permits. In the case of the groundwater monitoring and response program, permit modifications will be required when there is a need to progress from one stage of the program to the next.

Until permits are issued, existing hazardous waste land disposal facilities will continue to operate under the existing "interim status" standards which are largely self-implementing. To provide consistency between the July 26 permitting standards and the "interim status" standards during the period prior to permitting, EPA also issued on July 26, certain conforming changes and proposed other appropriate conforming changes to the "interim status" standards.

In order that the regulated community and the public better understand these land disposal standards for hazardous waste and the regulatory reform for the existing RCRA program, EPA is holding these four public meetings. The agenda will consist of ½ day for slide presentations by EPA staff and ½ day for the attendees to present questions to a panel of EPA experts.

Dated: August 11, 1982.

Rita M. Lavelle,

Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 82-22531 Filed 8-16-82; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 63, Supplement 1]

Commercial Activities; Federal Procurement Regulations

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement prescribes a contract clause which provides for the reporting of employment under commercial activities contracts for the purpose of furnishing Federal agencies with information necessary for the administration of their contracts. The basis for the supplement is Office of Personnel Management (OPM) severance pay regulations, 5 CFR 550.701(b)(6), regarding the disallowance of severance pay to Federal employees. The employees include those who, as a result of a transfer of work from in-house to contract, receive employment offers from the contractor for jobs comparable to what they had with the Federal Government, or who go to work for the contractor in any capacity within 90 days of the date of the transfer (contract start date). The anticipated benefit is the effective administration of the A-76 program.

DATES: Effective date: August 7, 1982. Expiration date: This regulation expires on August 7, 1984, unless canceled earlier.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Office of Federal Procurement Regulations (VR), Office of Acquisition Policy, 202-523-4755.

SUPPLEMENTARY INFORMATION: The information collection requirement contained in this regulation (Section 1-4.1408) has been approved by the Office of Management and Budget under the provision of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and has been assigned OMB Control Number 3090-0104.

Comments

The urgency to fulfill this requirement prevented circulation of this supplement for prior comment. Agencies and other interested parties are invited to submit comments on or before September 1, 1982, addressed to Philip G. Read, Director, Office of Federal Procurement Regulations (VR), General Services Administration, Washington, DC 20405.

Dated: August 7, 1982.

Ray Kline,

Acting Administrator of General Services.

August 7, 1982.

Federal Procurement Regulations, Temporary Regulation 63, Supplement 1

To: Heads of Federal agencies.

Subject: Commercial activities (previously known as Commercial or Industrial-Type Activities).

1. *Purpose.* This supplement prescribes an additional clause for use in all solicitations and resulting contracts subject to Subpart 1-4.14, Commercial Activities (CA).

2. *Effective date.* This supplement is effective.

3. *Expiration date.* This regulation expires on unless canceled earlier.

4. *Background.*

a. The Office of Management and Budget (OMB) Circular No. A-76 provides that it is the Government policy to rely on commercial sources rather than Federal Government activities for required products and services when it is determined to be more economical. The policies and procedures which implement OMB Circular No. A-76 were issued in FPR Temporary Regulation 63 (46 FR 46931, September 23, 1981).

b. The Office of Personnel Management (OPM) regulation in 5 CFR 550.701(b)(6) disallows severance pay for Federal employees who, as a result of a transfer of work from in-house to contract, receive employment offers from the contractor for jobs comparable to what they had with the Federal Government, or who go to work for the contractor in any capacity within 90 days of the date of the transfer (contract start date).

c. To facilitate the implementation of the OPM regulation, this supplement prescribes the Report of Employment Under Commercial Activities clause, which requires contractors to provide Federal agencies with the necessary information.

5. *Additional information.* The information collection requirement contained in this regulation (Section 1-4.1408), has been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and has been designed OMB control number 3090-0104

6. *Explanation of changes.* This supplement prescribes additions to Subpart 1-4.14 as follows:

PART 1-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 1-4.14—Commercial Activities

§ 1-4.1403 Contract clauses.

* * * * *

(d) The Report of Employment Under Commercial Activities clause prescribed by § 1-4.1408 shall be included in all solicitations and resulting contracts that are subject to this subpart.

* * * * *

§ 1-4.1408 Report of Employment Under Commercial Activities clause.

The contract clause prescribed by this § 1-4.1408 shall be included in all solicitations and resulting contracts as provided by § 1-4.1403(d).

Report of Employment Under Commercial Activities

(a) The Contracting Officer, as soon as practicable, will provide the Contractor with a list of the Federal employees, including social security numbers, that will be involuntarily separated from Government employment as a result of this contract.

(b) The Contractor agrees:

(1) To provide the Contracting Officer, within 5 working days after the date of transfer of the operation and maintenance responsibilities of a Federal project to the contractor (contract start date), with the names and social security numbers of individuals on the list referenced in paragraph (a) that, as of the contract start date, had accepted or rejected offers of employment comparable to their previous employment with the Federal Government. For those who reject the Contractor's employment offer, the Contractor shall include the total monetary value of the pay and benefits offered;

(2) To provide the Contracting Officer with the names and social security numbers of the individuals hired, within 5 working days of such hiring, during the first 90 days after the contract start date, if the Contractor hires any additional Federal employees on the list referenced in paragraph (a) for any job within the Contractor's organization; and

(3) To furnish the information required by this clause in a concise and clearly detailed format. (Report requirement approved by the Office of Management and Budget (OMB) under OMB Control Number 3090-0104.)

(c) The operation of the system of records identified by this clause is subject to the Privacy Act of 1974 (5 U.S.C. 552a) and the Privacy Act Notification and Clause of this contract. This clause constitutes the notice required to invoke compliance by the Contractor with the provisions of the notice and clause.

[FR Doc. 82-22449 Filed 8-16-82; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Public Land Order 6313

[U-50068]

Utah; Revocation of Coal, Phosphate, and Petroleum Reserve Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes Coal Withdrawals Utah No. 1, 4, 5, 8, 9, 10, 11, 12, 13, 14, and orders dated October 19, 1905, July 26, 1906, and October 10, 1906; Phosphate Reserves Utah No. 1, 2, 3, 4, 5, 6, and 7; and Petroleum Reserves Utah No. 2 and 7. These withdrawals no longer serve any useful purpose because of subsequent legislative authorizations. The action will restore the public lands involved to operation of the public land laws generally, including nonmetalliferous mining. All lands affected have been and will remain open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: September 15, 1982.

FOR FURTHER INFORMATION CONTACT: Ken Latimer, Utah State Office, 801-524-4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered:

1. The following executive orders creating classification areas and reserves of coal, phosphate and petroleum lands are hereby revoked:

Coal

July 11, 1905; July 26, 1906; October 10, 1906; October 13, 1906; October 15, 1906; November 14, 1906; November 26, 1906; December 24, 1906; February 16, 1907; February 24, 1908; April 2, 1909; March 2, 1910; May 9, 1910, as ratified and confirmed by the Act of Congress approved June 25, 1910; July 7, 1910; October 13, 1910; December 3, 1910; March 31, 1911; May 11, 1911; February 5, 1912; March 4, 1912; February 4, 1913; February 21, 1916; November 17, 1926.

Phosphate

December 9, 1908; October 4, 1909; December 4, 1909; December 20, 1909; February 14, 1910; February 15, 1910; July 2, 1910; August 8, 1910; May 11, 1915; March 16, 1916.

Petroleum

October 4, 1909; April 14, 1910; July 2, 1910; March 4, 1912.

The areas contained in the Executive Orders aggregate approximately 3,988,505 acres, including 3,777,054 acres coal, 179,027 acres phosphate, and 32,424 acres petroleum reserves in Cache, Carbon, Daggett, Duchesne, Emery, Garfield, Grand, Iron, Kane, Morgan, Rich, San Juan, Sanpete, Sevier, Summit, Uintah, Utah, Wasatch, and Wayne Counties.

2. At 10 a.m., on September 15, 1982, the public lands affected by the Executive Orders in paragraph 1 of this order shall be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on September 15, 1982, shall be considered simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on September 15, 1982, the national forest lands not otherwise withdrawn or appropriated, affected by the Executive Orders in paragraph 1 of this order, shall be opened to such forms of disposition as may by law be made of national forest lands.

4. At 10 a.m. on September 15, 1982, both the national forest land and the public land will be opened to nonmetalliferous location under the U.S. mining laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 136 East South Temple, University Club Building, Salt Lake City, Utah 84111.

Dated: August 10, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-22446 Filed 8-16-82; 8:45 am]

BILLING CODE 4310-84-M

Public Land Order 6314

[NM-52413]

New Mexico; Partial Revocation of Powersite Classification No. 327

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Secretarial order which withdrew lands for powersite purposes. This action will permit purchase of a townsite by the Catron County Commission under authority of the Act of July 31, 1958. It has been determined that the 35.45 acres are no longer needed for powersite purposes.

EFFECTIVE DATE: August 17, 1982.

FOR FURTHER INFORMATION CONTACT: Miguel M. Martinez, New Mexico State Office, 505–988–6654.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to a determination of the Federal Energy Regulatory Commission in DA–60–New Mexico, it is ordered as follows:

1. The Secretarial Order of October 4, 1941, creating Powersite Classification No. 327, is hereby revoked insofar as it affects the following described land:

New Mexico Principal Meridian

Gila National Forest

T. 11 S., R. 20 W.,
Sec. 23, lot 6.

The area described contains aproximately 35.45 acres in Catron County.

2. Effective immediately, the land shall be open to applications for disposal under the Act of July 31, 1958, 72 Stat. 438, 7 U.S.C. 1012a, 16 U.S.C. 478a, as amended by Section 213 of the Federal Land Policy and Management Act, 90 Stat. 2760; 43 U.S.C. 1714, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws.

Dated: August 10, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82–22447 Filed 8–16–82; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 2812–152]

50 CFR Part 285

Atlantic Tuna Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of retention of catch rate.

SUMMARY: NOAA issues notice that the catch rate for giant Atlantic bluefin tuna in the General category will remain at one fish per vessel per week until available catch data allow an increase in the catch rate to one giant Atlantic bluefin tuna per vessel per day without resulting in a total catch in excess of the quota. Current catch data indicate that an increase in the catch rate at this time would result in a closure of the fishery before September 15. The present catch rate will provide fishermen continued opportunity to harvest giant bluefin tuna without exceeding the established quota.

EFFECTIVE DATE: August 15, 1982, until December 31, 1982.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., National Marine Fisheries Service, Northeast Region, State Fish Pier, Gloucester, MA 01930; telephone 617–281–3600, ext. 325.

SUPPLEMENTARY INFORMATION: Final regulations governing the Atlantic bluefin tuna fishery were published on June 11, 1982 (47 FR 25350). The regulations establish a quota of 284 short tons (st) of giant bluefin tuna for the General category prior to September 15 and establish a catch rate limit of one fish per vessel per week. Section 285.32(a) provides: "Beginning on August 15, vessels registered in the General category may catch and retain one gaint Atlantic bluefin tuna per day, unless the Regional Director determines that this increase in the catch rate will result in a closure before September 15."

A review of the recent data from 1982 landings of giant Atlantic bluefin tuna in the General category show that landings amount to approximately 100 st. Giant Atlantic bluefin tuna are currently being landed at the rate of approximately 30 st per week with a catch rate of one (1) fish per vessel per week. Data from previous years indicate that fishing success for giant Atlantic bluefin tuna increases significantly in the latter part of August and early September. As a result, projections for Atlantic bluefin tuna landings show that the quota of 284 st, will be taken at the catch rate presently in effect. Therefore, no increase in the catch rate will be made at this time. However, since the data upon which this decision is predicated are preliminary, NOAA will continue to reevaluate the landing projection. If data become available which indicate that the Regional Director could increase the catch rate of giant Atlantic bluefin tuna to one fish per vessel per day without exceeding the quota, a notice to that effect will be published in the **Federal Register.** This process would allow for the optimal use of the giant Atlantic bluefin tuna quota allotted to the General category while maintaining consistency with international obligations.

Notice is hereby given under § 285.32(a) that the Regional Director has determined that the catch rate will remain at one giant per week. The impacts of this in-season adjustment of the daily catch rate on the participants in the fishery were considered in the design of the final regulations.

List of Subjects in 50 CFR Part 285

Administrative practice and procedure, Fish, Fisheries, Fishing, Imports, International organizations, Penalties, Reporting requirements.

(Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971h)

Dated: August 12, 1982.

William G.Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 82–22426 Filed 8–13–82; 10:06 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 47, No. 159
Tuesday, August 17, 1982

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 424

[Amdt. No. 3]

Rice Crop Insurance Regulations

AGENCY: Federal crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Rice crop Insurance Regulations (7 CFR Part 424), effective with the 1983 and succeeding crop years, by amending the provisions of the policy to provide: (1) That insurance attaches to rice seeded on a continuous yearly basis in California only, (2) a clarification as to which "second crop" insurance will not attach, (3) a clarification of the quality adjustment provision for rough rice, (4) a provision prescribing interest to be charged when premium payments are not made within a certain time, (5) for the addition of a provision to require the insured to file a notice of probable loss when the crop is damaged to the extent that a loss is probable and leave intact a representative sample of the unharvested crop, (6) for the addition of a provision to prescribe FCIC's liability in cases of loss due to fire when the insured has other insurance against fire loss, and (7) minor technical changes to language and format. The intended effect of this amendment is to restore a provision in the regulations regarding losses from fire, improve the debt management practices of FCIC, and revise the system of reporting damage or loss to crops to make the administration of the program more effective.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 18, 1982, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal crop Insurance corporation, U.S. Department of Agriculture, Washington, D.C. 20250

The Impact statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981).

Information collection requirements contained in the regulations to which this amendment applies (7 CFR Part 424) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paper work burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which this amendment applies are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in OMB circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

It has also been determined that this action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1512–1 (June 11, 1981). A sunset review date will be established for these regulations and published as part of the final rule.

The principal changes involved in this rule are as follows:

1. The replacement of the single-crop application by a multi-crop application to reduce paperwork on the part of the applicant.
2. The addition of a provision that unpaid premium balances will bear interest at the rate of one and a half percent simple interest per calendar month or any part thereof starting on the first day of the month following the first premium billing date.
3. The addition of a provision to require the insured to give at least 15 days notice of loss if damage to the crop appears probable, and to leave a representative sample of the unharvested crop intact for 15 days after the date of the notice.
4. The addition of a provision to allow insurance to attach to rice seeded on a continuous yearly basis in California only.
5. The addition of a provision to clarify the meaning of second crop on which insurance will not attach (i.e., a second rice crop following a rice crop harvested in the same calendar year).
6. The addition of a provision to clarify the quality adjustment provision relative to rough rice.
7. The addition of a provision to prescribe FCIC's liability in cases of loss due to fire when the insured has other insurance against fire losses.

In addition to these changes, FCIC proposes to make minor changes to language and format to include correction of the table of contents, correction of the Appendix—Additional Terms and Conditions, to indicate the party responsible for securing the rights of the Corporation relative to subrogation, and redesignating Appendix B as Appendix A.

All written submissions made pursuant to this notice will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 424

Crop insurance, Rice.

Proposed Rule

PART 424—RICE CROP INSURANCE

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation

hereby proposes to amend the Rice Crop Insurance Regulations (7 CFR Part 424) appearing at 44 FR 67349–67355, November 26, 1979, effective with the 1983 and succeeding crop years, in the following instances:

1. The authority citation for 7 CFR Part 424 is revised to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516)

2. The Table of Contents is revised to read as follows:

Secs.
424.1 Availability of rice crop insurance.
424.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
424.3 Reserved.
424.4 Creditors.
424.5 Good faith reliance on misrepresentation.
424.6 The contract.
424.7 The application and policy.

Appendix A. Counties designated for Rice Crop Insurance.

§ 424.7 [Amended]

3. 7 CFR 424.7(d) is amended by changing the year 1980, found in the first paragraph thereof, to read "1983," and by removing the application found therein and substituting the following:

FCI–12
Rev. (9–81)

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Crop Insurance Application

Continuous Contract

1 Name of Applicant

2 Agent, Administrator, Executor, Etc.

3 Street or Mailing address

4 City and State

5 ZIP Code
□□-□□□
6 State and County
□□□□□
7 Contract Number

8 County

9 State
□□□□□□□□□
10 Identification Number
□ □
11 SSN–TAX

12 Type of Entity
13 Applicant is Over 18: Yes——, No——
If No, Date of Birth

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the crop(s) shown below planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and, where applicable, a price election or plan of insurance. THE PREMIUM RATE AND APPLICABLE PRODUCTION GUARANTEE OR AMOUNT OF INSURANCE PER ACRE SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.

14	15	16	17	18
Effective crop year	Crop	Type, class plan of insurance	Price election	Level election
			•	
			•	
			•	
			•	
			•	
			•	
			•	
			•	

19		20 For Agency Use Only	21
		(A)	(P)
	□		
	□		
	□		
	□		
	□		
	□		
	□		
	□		

22 Crop(s) NOT insured the first year:

B. This application is accepted by the Corporation unless the applicant is notified of rejection within 30 days of the date hereof. Rejection shall be accomplished by depositing notification thereof in the United States Mail, postage paid, to the above address. Rejection may be for any reason which would also serve as a basis for termination under the policy, the Federal Crop Insurance Act, or the regulations issued thereunder. Outstanding and delinquent indebtedness to any United States Government Agency may be grounds for rejection. The contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the insurance policy(ies), the attached appendix(es), and the provisions of the county actuarial table showing the insurable and uninsurable acreage, coverage levels, premium rates, and where applicable, the production guarantees, amounts of insurance, or plan of insurance shall constitute the contract. No term or condition of the contract shall be waived or changed except in writing by the Corporation. A material failure to include complete and accurate information on this application may invalidate the automatic acceptance provision hereof.

23 □ Applicant has received the policy(ies) and appendix(es) for the crop(s) shown above.
24 □ Previous Carrier

25 Policy Number

26 Applicant's Signature

27 Date
19——
□□□□□
28 Code No.

29 Witness to Signature

30 Location of Farm Headquarters
Phone

31 Address of Your Service Office
Phone

See reverse side of form for statement required by Privacy Act of 1974.
32 NSIOT–FUR
33 Page —— of —— pages

4. Sections 2 (b), (2), and (5) of the Terms and Conditions section of the policy are amended to read as follows:

(d) * * *

* * * * *

Rice Crop Insurance Policy

Terms and Conditions

* * * * *

2. * * *

(b) * * *

(2) seeded to rice for the two preceding crop years, except in California. * * *

(5) of a second rice crop following a rice crop harvested in the same calendar year.

* * * * *

5. Section 5. (d) of the Terms and Conditions section of the policy as found in 7 CFR § 424.7(d) is revised to read as follows:

(d) * * *

* * * * *

Rice Crop Insurance Policy

Terms and Conditions

* * * * *

5. * * *

(d) Interest will accrue at the rate of one and a half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

6. Section 7 of the Terms and Conditions section of the policy as found in 7 CFR 424.7(d) is amended by revising item 7(c), redesignating 7(d) and (e) as 7(e) and (f) respectively, and adding a new 7(d) as follows:

§ 424.7 The application and policy.

* * * * *

(d) * * *

Terms and Conditions

* * * * *

7. Notice of damage or loss.* * *

(c) Notice shall be given at least 15 days prior to the beginning of harvest if the rice on any unit is damaged to the extent that a loss is probable. If probable loss is not determined until less than 15 days prior to the beginning of harvest on a unit, notice shall be given immediately and a representative sample of the unharvested rice (at least 10 feet wide and the entire length of the field) shall remain intact for a period of 15 days from the date of the notice, unless the Corporation gives written consent to the insured to harvest the representative sample.

(d) In addition to the notices required in paragraphs (b) and (c) of this section, if a loss is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the service office for the county not later than *30 DAYS* after the earliest of: (1) The date the harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire rice crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if there are extenuating circumstances.

* * * * *

7. Section 8.(c)(1) of the Terms and Conditions section of the policy as found in 7 CFR 424.7(d) is revised to read as follows:

* * * * *

(d) * * *

Terms and Conditions

* * * * *

8. Claim for Indemnity.

* * * * *

(c) * * *

(1) Mature production which grades No. 3 or better shall be reduced .12 percent for each .1 percent of moisture in excess of 14.0 percent and if, due to insurable causes, the value per pound of rough rice, as determined by the Corporation, is less than the market price for the same variety of rough rice grading U.S. No. 3 (determined in accordance with the Official U.S. Grain Standards) with a milling yield per cwt. of 55 pounds of heads for the short and medium grain varieties and 48 pounds of heads for long grain varieties (whole kernels) and 68 pounds total milling yield (heads, second heads, screenings, and brewers), the number of pounds of such rice to be counted shall be adjusted by: (i) Dividing the value per pound of the damaged rice (as determined by the Corporation) by the market price per pound at the nearest mill center for the same variety of rough rice grading U.S. No. 3 with the milling yields as stated above, and (ii) multiplying the result thus obtained by the number of pounds of production of such damaged rice. The applicable price for No. 3 rice with the stated milling yields shall be the nearest mill center price on the earlier of the day the loss is adjusted or the date the damaged rice was sold.

* * * * *

8. The Appendix to the Rice Crop Insurance Policy (Additional Terms and Conditions) as found in the appendix to 7 CFR 424.7(d), is amended by revising section (g) in its entirety to read as follows:

* * * * *

(d) * * *

Appendix to the Rice Crop Insurance Policy (Additional Terms and Conditions)

* * * * *

1. Meaning of Terms. For the purposes of rice crop insurance: * * *

(g) "Service office" means the office serving your contract as shown on the application for insurance or such other office as may, in writing, be selected by you after approval by us or designated by us upon written notice to you.

9. The Appendix to the Rice Crop Insurance Policy (Additional Terms and Conditions) as found in the appendix to 7 CFR 424.7(d) is amended by revising section 6 in its entirety to read as follows:

(d) * * *

Appendix to the Rice Crop Insurance Policy (Additional Terms and Conditions)

* * * * *

6. *Subrogation.* You (including any assignee or transferee) assign to us all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by us. You shall execute all required documents and take appropriate action as may be necessary to secure such rights.

10. The Appendix to the Rice Crop Insurance Policy (Additional Terms and Conditions) as found in 7 CFR 424.7(d), is amended by adding a Section 11 to read as follows:

(d) * * *

Appendix to the Rice Crop Insurance Policy (Additional Terms and Conditions)

* * * * *

11. *Other Insurance Against Fire.* If the insured has other insurance against damage by fire during the insurance period, the Corporation shall be liable for loss due to fire only for the smaller of (a) the amount of indemnity determined by the Corporation under the policy with the Corporation, or (b) the amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire, as determined by the Corporation from appraisals made by the Corporation.

Appendix B [Redesignated as Appendix A]

11. Appendix B to 7 CFR Part 424 is redesignated as Appendix A in the title thereof.

Done in Washington, D.C., on August 9, 1982.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Robert H. Sindt,

Deputy Manager.

[FR Doc. 82-22255 Filed 8-16-82; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 80N-0274]

Tartaric Acid and Certain Tartrates; Proposed Affirmation of GRAS Status

AGENCY: Food and Drug Administraiton.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that tartaric acid, potassium acid tartrate, sodium potassium tartrate, and sodium tartrate are generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under a comprehensive safety review conducted by the agency.

DATE: Comments by October 18, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vivian Prunier, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of tartaric acid, potassium acid tartrate, sodium potassium tartrate, and sodium tartrate has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of these ingredients.

Naturally occurring tartaric acid, COOH-CHOH-CHOH-COOH, and its salts are generally of the L (levorotatory) configuration (based on the absolute configuration of D-glyceric acid). They are designated in modern nomenclature as L (+)tartrates. In some

older publications, they may be designated as *d*-tartrates (because L forms of tartrates are dextrorotatory in solution). Food grade tartrates, which are the subject of this document, have the L (+) configuration. As used in this document, the term tartrates means tartrates having the L (+) configuration.

Tartrates occur naturally in many fruits and are present at quite high levels in some foods. The tartrate concentration of wine is reported to range from 40 to 370 milligrams per 100 milliliters (an average of 400 milligrams tartrates in a 200 milliliter glass of wine). Dried coffee beans reportedly contain 0.31 percent tartrate, which can be extracted on the first brewing. Accordingly, one cup of coffee would contain about 15 milligrams tartrates. Tartrates are also found in papayas, pineapples, and molasses.

Tartrates have a strong tart taste and are used in food to augment natural and synthetic fruit flavors. Tartaric acid and potassium acid tartrate (cream of tartar) are common ingredients of leavening systems.

A regulation published in the **Federal Register** of January 31, 1961 (26 FR 938) and recodified in the **Federal Register** of March 15, 1977 (42 FR 14302), listed tartaric acid and its salts as GRAS for direct use as multiple purpose ingredients as follows: § 182.1077 *Potassium acid tartrate* (21 CFR 182.1077), § 182.1099 *Tartaric acid* (21 CFR 182.1099), and § 182.1804 *Sodium potassium tartrate* (21 CFR 182.1804). The same regulation also listed tartaric acid and its salts as GRAS for direct use in food as sequestrants as follows: § 182.6099 *Tartaric acid* (21 CFR 182.6099), § 182.6801 *Sodium tartrate* (21 CFR 182.6801), and § 182.6804 *Sodium potassium tartrate* (21 CFR 182.6804). A regulation listing tartaric acid as GRAS for use in cotton and cotton fabrics in § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* (21 CFR 182.70) was published in the **Federal Register** of June 10, 1961 (26 FR 5224).

Tartaric acid and its salts are listed as optional ingredients in the following identity standards for foods: sodium tartrate and sodium potassium tartrate in § 133.169 *Pasteurized process cheese* (21 CFR 133.169), § 133.173 *Pasteurized process cheese food* (21 CFR 133.173), and § 133.179 *Pasteurized process cheese spread* (21 CFR 133.179); tartaric acid, potassium acid tartrate, sodium potassium tartrate, and sodium tartrate in § 150.141 *Artificially sweetened fruit jellies* (21 CFR 150.141) and § 150.161 *Artificially sweetened fruit preserves and jams* (21 CFR 150.161); and sodium tartrate and tartaric acid in § 166.110 *Margarine* (21 CFR 166.110). Tartaric acid may also be used to acidify wine under the Department of the Treasury's Bureau of Alcohol, Tobacco Products and Firearms regulations (27 CFR 240.1051).

In 1971, the National Academy of Science/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which tartaric acid and tartrates were used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to these ingredients. Based on the NAS/NRC survey, FDA estimates the approximate 1970 poundage of tartaric acid and tartrates used in foods in the United States to be 991,000 pounds of potassium acid tartrate and 969,000 pounds of tartaric acid. NAS/NRC did not report poundage data for sodium potassium tartrate or sodium tartrate.

Tartaric acid and tartrates have been the subjects of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity; (2) occupational hazards; (3) metabolism; (4) reaction products; (5) degradation products; (6) carcinogenicity, teratogenicity, or mutagenicity; (7) dose response; (8) reproductive effects; (9) histology; (10) embryology; (11) behavioral effects; (12) detection; and (13) processing. A total of 548 abstracts on tartaric acid and tartrates was reviewed, and 48 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

Information from the scientific literature review and other studies has been summarized in a report to FDA by the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all available safety information on tartaric acid and certain tartrates.[1] In the Select Committee's opinion:

Tartrates occur naturally in many fruits and high concentrations are found in wine. Consumer exposure data suggest that about 6 mg each of tartaric acid and potassium acid tartrate added to foods are ingested daily per capita (a total of about 0.2 mg per kg in an adult). The literature indicates that there are no differences in the biological effects of the several tartrates added to food and that their toxicity is dose related. Studies using modern tracer techniques would be helpful in ascertaining the extent of absorption and metabolic fate of ingested tartrates.

Tartrates are reported to elicit nephritic lesions in several animal species, but usually only after parenteral injection of very large doses. Daily ingestion of 2.3 g per kg of body weight per day for 150 days produced no ill effects in rabbits. No toxicity was found in rats ingesting up to 1.2 g per kg of body weight of tartaric acid in the diet daily for 2 years. The daily intake of tartrates added to foods is orders of magnitude below that which could be expected to cause toxicity in man.[2]

The Select Committee concludes that no evidence in the available information on *L*(+) potassium acid tartrate, *L*(+) sodium potassium tartrate, *L*(+) sodium tartrate, and *L*(+) tartaric acid demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels that are now current or that might reasonably be expected in the future.[3]

FDA has undertaken its own evaluation of all available information on food uses of tartaric acid and tartrates and concurs with the conclusion of the Select Committee. The agency concludes that no change in the current GRAS status of these ingredients is justified. Therefore, the agency proposes that tartaric acid and the tartrates be affirmed as GRAS.

The agency is proposing not to include in the GRAS affirmation regulations for tartaric acid and tartrates the levels of use reported in the NAS/NRC 1971 survey for these ingredients. These substances occur naturally in many foods at higher levels than those at which they would be added to food by manufacturers. Furthermore, both FASEB and the agency have concluded that a large margin of safety exists for the use of these substances, and that a reasonably foreseeable increase in the level of consumption of these substances will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of tartaric acid and the tartrates when they are used under current good

[1] "Evaluation of the Health Aspects of Potassium Acid Tartrate, Sodium Potassium Tartrate, Sodium Tartrate, and Tartaric Acid as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1979, pp. 9–15. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preamble to proposals that affirm GRAS status in accordance with current good manufacturing practice.

[2] *Ibid.*, p. 16.

[3] *Ibid.*

manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of potassium acid tartrate, sodium tartrate, and sodium potassium tartrate is based on the evaluation of limited uses, the proposed regulations set forth the technical effects and food categories that FDA evaluated.

In the future, FDA will propose to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency intends to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

In the past, when a substance has been listed in Part 182 (21 CFR Part 182) as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 (21 CFR Parts 184 and 186) to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless safety considerations make it necessary to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of tartaric acid. The indirect uses of tartaric acid would be authorized under §§ 184.1099 and 184.1(a).

In the case of tartaric acid, FDA believes that the general requirements that indirect GRAS ingredients be of a purity suitable for its intended use in accordance with § 170.30(h)(1) (21 CFR 170.30(h)(1)) and used in accordance with current good manufacturing practice are sufficient to ensure the safe use of this ingredient. Therefore, the agency has not proposed any specific purity specifications for its indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA published a proposal in the **Federal Register** of June 25, 1982 (47 FR 27817) to amend its procedural regulations in Parts 184 and 186 to reflect clearly these policies.

Copies of the scientific literature review on tartrates, mutagenic evaluations of tartaric acid and potassium acid tartrate, teratalogic evaluation of tartaric acid, and the report of the Select Committee are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Tartrates (scientific literature review).	PB241-955/AS ...	A05	$8.00
Tartaric acid and tartrates (Select Committee report).	PB301-403/AS ...	A03	6.00
Potassium acid tartrate (mutagenic evaluation).	PB254-521/AS ...	A03	6.00
Tartaric acid (mutagenic evaluation).	PB245-445/AS ...	A08	11.00
Tartaric acid (teratologic evaluation).	PB223-821/AS ...	A04	7.00

[1] Price subject to change.

This proposal does not affect the current use of tartaric acid and tartrates in pet food or animal feed.

The format of the proposed regulations is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1077, 184.1099, 184.1801, and 184.1804 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including both the technical effects and food categories listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

1. Part 182 is amended:

§ 182.70 [Amended]

a. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing "Tartaric acid" from the list of substances.

§§ 182.1077, 182.1099, 182.1804, 182.6099, 182.6801, 182.6804 [Removed]

b. By removing § 182.1077 *Potassium acid tartrate,* 182.1099 *Tartaric acid,* § 182.1804 *Sodium potassium tartrate,* § 182.6099 *Tartaric acid,* § 182.6801 *Sodium potassium,* and § 182.6804 *Sodium potassium tartrate.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1077, to read as follows:

§ 184.1077 Potassium acid tartrate.

(a) Potassium acid tartrate ($C_4H_5KO_6$, CAS Reg. No. 868–14–4) is the potassium acid salt of *L*(+) tartaric acid and is also called potassium bitartrate or cream of tartar. It occurs as colorless or slightly opaque crystals or as white, crystalline powder. It has a pleasant,

acid taste. It is obtained as a byproduct of wine manufacture.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 238, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1)The ingredient is used as an anticaking agent as defined in § 170.3(o)(1) of this chapter; antimicrobial agent as defined in § 170.3(o)(2) of this chapter; formulation aid as defined in § 170.3(o)(14) of this chapter; humectant as defined in § 170.3(o)(16) of this chapter; leavening agent as defined in § 170.3(o)(17) of this chapter; pH control agent as defined in § 170.3(o)(23) of this chapter; processing aid as defined in § 170.3(o)(24) of this chapter; stabilizer and thickener as defined in § 170.3(o)(28) of this chapter; and surface-active agent as defined in § 170.3(o)(29) of this chapter;

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods as defined in § 170.3(n)(1) of this chapter; confections and frostings as defined in § 170.3(n)(9) of this chapter; gelatins and puddings as defined in § 170.3(n)(22) of this chapter; hard candy as defined in § 170.3(n)(25) of this chapter; jams and jellies as defined in § 170.3(n)(28) of this chapter; and soft candy as defined in § 1703(n)(38) of this chapter.

b. By adding new § 184.1099 to read as follows:

§184.1099 Tartaric acid.

(a) Food grade tartaric acid ($C_4H_6O_6$, CAS Reg. No. 82–69–4) has the L configuration. The L form of tartaric acid is dextrorotatory in solution and is sometimes designated as L(+) tartaric acid. Tartaric acid occurs as colorless or translucent crystals or white, crystalline powder. It is odorless and has an acid taste. It is obtained as a byproduct of wine manufacture.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 320, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacuring practice conditions of use:

(1) The ingredient is used as a firming agent as defined in § 170.3(o)(10) of this chapter; flavor enhancer as defined in § 170.3(o)(11) of this chapter; flavoring agent as defined in § 170.3(o)(12) of this chapter; humectant as defined in § 170.3(o)(16) of this chapter; and pH control agent as defined in § 170.3(o)(23) of this chapter;

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice.

c. By adding new § 184.1801, to read as follows:

§ 184.1801 Sodium tartrate.

(a) Sodium tartrate ($C_4H_4Na_2O_6.2H_2O$, CAS Reg. No. 868–18–8) is the disodium salt of L(+) tartaric acid. It occurs as transparent, colorless, odorless crystals. It is obtained as a byproduct of wine manufacture.

(b) the ingredient meets the specifications of the Food Chemicals Codex. 3d Ed. (1981), p. 303, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacuring practice conditions of use:

(1) The ingredient is used as an emulsifier as defined in § 170.3(o)(8) of this chapter and as pH control agent as defined in § 170.3(o)(23) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: cheeses as defined in § 170.3(n)(5) of this chapter; fats and oils as defined in § 170.3(n)(12) of this chapter; and jams and jellies as defined in § 170.3(n)(28) of this chapter.

d. By adding new § 184.1804, to read as follows:

§ 184.1804 Sodium potassium tartrate.

(a) Sodium potassium tartrate ($C_4H_4KNaO_6.4H_2O$, CAS Reg. No. 304–59–6) is the sodium potassium salt of L(+) tartaric acid and is also called the Rochelle salt. It occurs as colorless crystals or a white, crystalline powder and has a cooling saline taste. It is obtained as a byproduct of wine manufacture.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 296, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 110 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient is generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an emulsifier as defined in § 170.3(o)(8) of this chapter and pH control agent as defined in § 170.3(o)(23) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: cheeses as defined in § 170.3(n)(5) of this chapter and jams and jellies as defined in § 170.3(n)(28) of this chapter.

The agency is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before October 18, 1982 submit to the Dockets Management Branch (address above), written comments regarding this

proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 28, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-22334 Filed 8-16-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 184

[Docket No. 82G-0197]

Candelilla Wax; Proposed Affirmation of GRAS Status as a Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that candelilla wax is generally recognized as safe (GRAS) as a direct food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATE: Comments by October 18, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTRACT: Hortense S. Macon, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive safety review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of candelilla wax has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of this ingredient.

Candelilla wax is obtained from the candelilla plant which is found in the dry regions of northern Mexico and southern Texas. Several species of the genus Euphorbia are the chief economic sources of the wax. The candelilla plant consists of numerous slender cylindrical stalks. These stalks are covered with a powdery wax that gives the plant a bluish-green color.

Candelilla wax is a hard and brittle wax. It is composed of about 50 percent hydrocarbons with smaller amounts of esters and free acids. The wax is insoluble in water but soluble in acetone, chloroform, benzene, and other organic solvents.

Candelilla wax is prepared through extraction from the plant by immersion in a tank containing boiling water acidified with sulfuric acid. The molten product is skimmed off as it rises to the surface. The wax is kept at the boiling point to remove water and then allowed to settle to remove any dirt present. The yield of clarified wax is about 1.5 to 3 percent of the air dried plant.

FDA stated in advisory opinion letters in 1959, 1961, 1963, 1966, 1967, and 1968 that it considered candelilla wax to be GRAS for use as a component of chewing gum base, as a glaze for hard candies, and as a component of food-packaging materials. FDA has approved candelilla wax for use as a component in adhesives in § 175.105 (21 CFR 175.105); as an adjuvant in resinous and polymeric coatings for polyolefin films contacting food surfaces in § 175.320 (21 CFR 175.320); and as a component of paper and paperboard in contact with dry food in § 176.180 (21 CFR 176.180).

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representive cross-section of food manufacturers to determine the specific foods in which candelilla was was used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to candelilla wax. The survey revealed that candelilla wax is used as a lubricant and surface-active agent in chewing gum and hard candy. FDA estimates from the 1971 NAS/NRC survey that in 1970 approximately 1,430,000 pounds of candelilla wax were used in food. The major food use of candelilla wax is as a component of chewing gum. Candelilla wax represents 5 percent of chewing gum base, which in turn constitutes about 20 to 25 percent of the total weight of the stick.

Candelilla wax has been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 35 abstracts was reviewed, and 15 particularly pertinent reports have been summarized in a scientific literature review.

Information from the scientific literature review has been summarized in the report to FDA of the Select Committee on GRAS Substances (Select Committee), which is composed of qualified scientists selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have carefully evaluated all of the available safety information on candelilla wax.[1] In the Select Committee's opinion:

> Candelilla wax is a complex substance of plant origin which is used as an ingredient in chewing gum base and as a component of food packaging materials. It is virtually insoluble in water. Many of the constituents of candelilla wax are natural components of vegetables and fruits.
>
> Short- and long-term feeding studies of candelilla wax, in bases up to 5% in the diet, revealed no evidence of toxicity in rats, mice, guinea pigs, and dogs. Candelilla wax products also showed no evidence of carcinogenicity when tested in rats, mice, and guinea pigs.[2]

The Select Committee concludes that no evidence in the available information on candelilla wax demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used at the levels now current or that might reasonably be expected in the future.[3]

FDA has undertaken its own evaluation of all available information on food uses of candelilla wax and concurs with the conclusion of the Select Committee. The agency concludes that no change in the current GRAS status of this ingredient is justified. Therefore, the agency proposes that candelilla wax be affirmed as GRAS.

Additionally, FDA is proposing not to include in the GRAS affirmation regulation for candelilla wax the levels of use reported in the NAS/NRC 1971 food survey for this ingredient. The agency has concluded that a reasonably foreseeable increase in use of the

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[1] "Evaluation of the Health Aspects of Candelilla Wax as a Food Ingredient," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1981, pp. 7-10. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting that discussion in the preamble to proposals that affirm GRAS status in accordance with good manufacturing practice.

[2] *Ibid.*, p. 11.

[3] *Ibid.*, p. 11.

ingredient in food will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of candelilla wax when it is used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of candelilla wax is based on the evaluation of limited uses, the proposed regulation sets forth the technical effects and food categories that FDA evaluated.

In the future, FDA will propose to adopt as a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency intends to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

Copies of the scientific literature review on candelilla wax and the report of the Select Committee are available for review at the Dockets Management Branch (address above) and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Candelilla Wax (Select Committee Report).	PB-81 209-447...	A02	$7.50
Candelilla Wax (Scientific Literature Review).	PB-287-762/AS .	A02	7.50

[1] Price subject to change.

The format of this proposed regulation is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1976 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including the food categories and technical effects listed. This change is not substantive but is made merely for clarity.

This proposed action does not affect the current use of candelilla wax in pet food or animal feeds.

The agency has determined pursuant to 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects in 21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 184 be amended by adding new § 184.1976 to read as follows:

§ 184.1976 Candelilla wax.

(a) Candelilla wax (CAS Reg. No. 8006448) is obtained from the candelilla plant. It is a hard, yellowish-brown, opaque to translucent wax. Candelilla wax is prepared by immersing the plants in boiling water containing sulfuric acid and skimming off the wax that rises to the surface. It is composed of about 50 percent hydrocarbons with smaller amounts of esters and free acids.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 67, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a lubricant as defined in § 170.3(o)(18) of this chapter and as a surface finishing agent as defined in § 170.3(o)(30) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: in hard candy as defined in § 170.3(n)(25) of this chapter and in chewing gum as defined in § 170.3(n)(6) of this chapter.

The agency is unaware of any prior sanction for the use of this ingredient in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before October 18, 1982 submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 28, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-22340 Filed 8-16-82; 8:45 am]

BILLING CODE 4160-10-M

21 CFR Part 184

[Docket No. 82N-0103]

Glucono Delta-Lactone; Proposed Affirmation of GRAS Status as a Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that glucono delta-lactone is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATE: Comments by October 18, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD.

FOR FURTHER INFORMATION CONTACT: Leonard C. Gosule, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of glucono delta-lactone has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of this ingredient.

Glucono delta-lactone is produced by the oxidation of glucose either with bromine water or in the bacterium *Acetobacter suboxydans*. However, only the former process is used commercially. The food-grade product is a fine, white, practically odorless crystalline powder that is freely soluble in water (59 grams per 100 milliliters), sparingly soluble in alcohol (1 gram per 100 milliliters), and insoluble in ether.

Glucono delta-lactone hydrolyzes in cold water to form an equilibrium mixture with glucono gamma-lactone and gluconic acid. The pH of a freshly prepared 1 percent aqueous solution decreases from about 3.6 to 2.5 within 2 hours.

In several opinion letters, FDA has stated that glucono delta-lactone is GRAS for use as a buffer, neutralizing agent, acidulant, and leavening agent. It is used in baked goods, milk products, cheeses, processed fruits and juices, plant protein products, and dairy product analogs. In addition, it is regulated by the U.S. Department of Agriculture for use as an accelerator of color fixing in cured comminuted meat or meat food products at a level of up to 8 ounces per 100 pounds (9 CFR 318.7).

In 1971, the National Academy of Sciences/ National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which glucono delta-lactone was used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to this ingredient. NAS/NRC updated this information in 1975 and 1981. Based on NAS/NRC figures, during the decade 1960 to 1970, use of glucono delta-lactone increased by approximately a factor of two. FDA estimates from the NAS/NRC survey that in 1970 161,000 pounds of glucono delta-lactone were used in food.

Glucono delta-lactone was the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 122 abstracts was reviewed, and 24 particularly pertinent reports have been summarized in a scientific literature review.

Information from the scientific literature review and other sources has been summarized in a report to FDA by the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Bilogy (FASEB). The members of the Select Committee have evaluated all the available safety information on glucono delta-lactone.[1] In the Select committee's opinion:

Phosphorylated derivatives of glucono delta-lactone and gluconic acid, the hydrolysis product of glucono delta-lactone, are intermediates in glucose metabolism in the pentose phosphate shunt. Glucono delta-lactone is used as an acidulant in leavening agents, as a buffer or neutralizing agent, and as a color-fixing accelerator in meat-curing processes. In aqueous solution, it forms an equilibrium mixture with gluconic acid and its delta- and gamma-lactones. The per capita daily consumption of glucono delta-lactone resulting from its use as an added ingredient is believed to be less than 1 mg.

Glucono delta-lactone is absorbed from the gastrointestinal tract, metabolized by normal metabolic pathways, and, depending on the amount ingested, some may be excreted in the urine. Acute and short-term toxicity studies suggest a very low order of toxicity. Long-term animal studies at multiple feeding levels have not breen reported; however, one long-term feeding study in rats suggests no adverse effects. Glucono delta-lactone was nonmutagenic in several microbial assays and nonteratogenic in tests with mice, rats, hamsters, and rabbits.[2]

The Select Committer concludes that no evidence in the available information on glucono delta-lactone demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.[3]

FDA has undertaken its own evaluation of all available information on food uses of glucono delta-lactone and concurs with the conclusion of the Select Committee. The agency concludes that no change in the current GRAS status of this ingredient is justfied. Therefore, the agency proposes that glucono delta-lactone be affirmed as GRAS.

In addition, FDA is not proposing to include in the GRAS affirmation regulation for glucono delta-lactone the levels of use reported in the NAS/NRC 1971 survey for this ingredient. The agency has concluded that a reasonably foreseeable increase in the level of consumption of this substance will not affect human health. This conclusion is based on the fact that the Select Committee found that glucono delta-lactone has a low order of toxicity in experimental animals and in humans; that glucono delta-lactone naturally occurs in humans as its phosphorylated derivative; and that it is added to a limited number of categories of food products. Therefore, the agency is proposing to affirm the GRAS status of glucono delta-lactone when it is used under current good manufacturing practice conditions of use in accordance

[1] "Evaluation of the Health Aspects of Glucono Delta-Lactone as a Food Ingredient," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1981, pp. 5-7. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preamble to proposals that affirm GRAS status in accordance with current good manufacturing practice.

[2] *Ibid.*, p. 8.

[3] *Ibid.*

with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of glucono delta-lactone is based on the evaluation of limited uses, the proposed regulation sets forth the technical effects and food categories that FDA evaluated.

In the future, FDA will propose to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency intends to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

Copies of the scientific literature review, mutagenicity and teratology reports, and the report of the Select Committee on glucono delta-lactone are available for review at the Dockets Management Branch (address above) and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Glucono delta-lactone (scientific literature review).	PB 284-879/AS	AO3	$7.50
Glucono delta-lactone (mutagenicity report).	PB 245-438/AS	AO3	7.50
Glucono delta-lactone (teratology report).	PB 223-830/AS	AO4	9.00
Glucono delta-lactone (Select Committee report).	PB 82-108663	AO2	6.00

[1] Price subject to change.

This proposed action does not affect the current use of glucono delta-lactone in pet food or animal feed.

The format of the proposed regulation is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1318 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including both the technical effects and food categories listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substance covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposed rule, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects in 21 CFR Part 184

Direct food ingredients; Food ingredients; Generally recognized as safe (GRAS) food ingredients.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 184 be amended by adding new § 184.1318, to read as follows:

§ 184.1318 Glucono delta-lactone.

(a) Glucono delta-lactone ($C_6H_{10}O_6$, CAS Reg. No. 90–80–2), also called *D*-gluconic acid delta-lactone or *D*-glucono-1,5-lactone, is the cyclic-1,5-intramolecular ester of *D*-gluconic acid. It is prepared commercially by the oxidation of *D*-glucose with bromine water.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 134, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a curing and pickling agent as defined in § 170.3(o)(5) of this chapter; leavening agent as defined in § 170.3(o)(17) of this chapter; pH control agent as defined in § 170.3(o)(23) of this chapter; and sequestrant as defined in § 170.3(o)(26) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter; cheeses as defined in § 170.3(n)(5) of this chapter; dairy product analogs as defined in § 170.3(n)(10) of this chapter; meat products as defined in § 170.3(n)(29) of this chapter; milk products as defined in § 170.3(n)(31) of this chapter; plant protein products as defined in § 170.3(n)(33) of this chapter; and processed fruits and fruit juices as defined in § 170.3(n)(35) of this chapter.

The agency is unaware of any prior sanction for use of this ingredient in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federeal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constituted a waiver of the right to assert or rely on it later. Should any person sumbit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before October 18, 1982, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 28, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-22339 Filed 8-16-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 660

[Docket No. 82N-0217]

Antibody to Hepatitis B Surface Antigen and Hepatitis B Surface Antigen; Samples, Protocols, and Official Release

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the biologic regulations under Part 660 (21 CFR Part 660) to moderate the requirements concerning submission of samples and official release of non-radio-labeled Antibody to Hepatitis B Surface Antigen and Heptatitis B Surface Antigen. The amendments are intended to reduce the burden on manufacturers concerning these requirements and are being proposed at the request of an affected manufacturer. The amendments would eliminate requirements that are not necessary for the protection of public health.

DATES: Comments by October 18, 1982. The proposed effective date of the final rule based on this proposal is 30 days after the date of the final rule's publication in the **Federal Register**.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooten, National Center for Drugs and Biologics (HFB-620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 14, 1981 (46 FR 36134), FDA amended Part 660 by adding new § 660.6 (21 CFR 660.6) to reduce the number of samples of diagnostic test kits containing Antibody to Hepatitis B Surface Antigen iodinated with ^{125}I that must be submitted to the National Center for Drugs and Biologics for testing and lot release before issuance of the test kits by the manufacturer. Manufacturers had been required to submit a sample and protocol for each lot of the diagnostic test kit marketed. The new § 660.6(b) requires manufacturers of Antibody to Hepatitis B Surface Antigen iodinated with ^{125}I to submit one finished package of each lot until written notification of official release by the agency is received for each of at least five consecutive lots. Thereafter, sample submission is required only at 90-day intervals, and written notification of official release is not applicable. The new § 660.6(b) eliminates unnecessary burdens on manufacturers concerning the loss of product and cost of mailing samples, and on the agency in the cost of storing, testing, and disposing of sample diagnostic test kits.

FDA has received a request to extend the provisions of § 660.6(b) concerning Antibody to Hepatitis B Surface Antigen iodinated with ^{125}I to § 660.6(a) concerning Antibody to Hepatitis B Surface Antigen (not iodinated with ^{125}I) and to § 660.46 (21 CFR 660.46) concerning Hepatitis B Surface Antigen. Both §§ 660.6(a) and 660.46 now prohibit the final product from being issued by the manufacturer until samples of the lot of product have been submitted to FDA for testing and FDA provides written notification of official release to the manufacturer. Antibody to Hepatitis B Surface Antigen (not iodinated with ^{125}I) and Hepatitis B Surface Antigen have been tested and released by FDA since 1971 and 1975, respectively, to ensure the continued quality and reliability of the finished test kits.

FDA's data concerning the testing of these products demonstrate consistency in the potency, quality, and reliability of the products. Therefore, FDA believes that the stringent requirements of §§ 660.6(a) and 660.46 are unnecessary and that the less stringent provisions of § 660.6(b) should be extended as requested. Accordingly, FDA is proposing to amend §§ 660.6 and 660.46 to reduce the required quantity of sample to be submitted to the agency and to eliminate the requirement of official release of non-radio-labeled Anti-HBsAg and HBsAg (including non-radio-labeled and radio-labeled products and unlyophilized HBsAg-coated red blood cells) after consistency in manufacturing has been established following licensure. For clarity, the proposed amendments would eliminate the distinction in each section between the different forms of the affected products.

In addition, FDA believes that the regulations should provide flexibility to require fewer samples than that prescribed by the current regulations or no samples when FDA determines that, as a result of testing efficiency or technological changes, fewer or no samples are sufficient to ensure the potency, quality, and reliability of the finished product. Therefore, the proposed amendments also authorize the Director, National Center for Drugs and Biologics, to request a smaller quantity of sample than specified in the regulations or no samples.

The agency has determined pursuant to 21 CFR 25.24(d)(10) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individualy or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The agency has examined the economic impact of this proposed rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96-354). The proposed regulation will reduce the burden placed on industry under the current regulations by reducing the quantity of product samples required to be submitted and/or the requirements for official release by FDA of each manufactured lot of product. There are currently only three manufacturers of HBsAg and nine manufacturers of Anti-HBsAg products. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

List of Subjects in 21 CFR Part 660

Biologics.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 660 be amended as follows:

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

1. By revising § 660.6 to read as follows:

§ 660.6 Samples; protocols; official release.

(a)(1) *Samples.* Unless the Director, National Center for Drugs and Biologics, determines that the reliability and consistency of the finished product can be assured with a smaller quantity of sample or no sample and specifically

reduces or eliminates the required quantity of sample, each manufacturer shall submit the following samples to the Director, National Center for Drugs and Biologics, 8800 Rockville Pike, Bethesda, MD 20205, within 1 working day after the manufacturer has satisfactorily completed all tests on the samples:

(i) One sample until written notification of official release is no longer required under paragraph (c)(2) of this section.

(ii) One sample at periodic intervals of 90 days, beginning after written notification of official release is no longer required under paragraph (c)(2) of this section. The sample submitted at the 90-day interval shall be from the first lot or filling, as applicable, released by the manufacturer, under the requirements of § 610.1 of this chapter, after the end of the previous 90-day interval. The sample shall be identified as "surveillance sample" and shall include the date of manufacture.

(iii) Samples may at any time be required to be submitted to the Director, National Center for Drugs and Biologics, if the Director finds that continued evaluation is necessary to ensure the potency, quality, and reliability of the product.

(2) For the purposes of this section, a sample of product not iodinated with ^{125}I means a sample from each filing of each lot packaged as for distribution, including all ancillary reagents and materials; and a sample of product iodinated with ^{125}I means a sample from each lot of diagnostic test kits in a finished package, including all ancillary reagents and materials.

(b) *Protocols.* For each sample submitted as required in paragraph (a)(1) of this section, the manufacturer shall send a protocol that consists of a summary of the history of manufacture of the product, including all results of each test for which test results are requested by the Director, National Center for Drugs and Biologics. The protocols submitted with the samples at periodic intervals as provided in paragraph (a)(1)(ii) of this section shall be identified by the manufacturer as "surveillance test results."

(c) *Official release.* (1) The manufacturer shall not distribute the product until written notification of official release is received from the Director, National Center for Drugs and Biologics, except as provided for in paragraph (c)(2) of this section. Official release is required for samples from at least five consecutive lots or fillings, as applicable, manufactured after licensure of the product.

(2) After written notification of official release is received from the Director, National Center for Drugs and Biologics, for samples from at least five consecutive lots or fillings, as applicable, manufactured after licensure of the product, and after the manufacturer receives written notification that official release is no longer required, subsequent lots or fillings may be released by the manufacturer under the requirements of § 610.1 of this chapter.

(3) The manufacturer shall not distribute lots or fillings, as applicable, of products that require sample submission under paragraph (a)(1)(iii) of this section until written notification of official release or notification that official release is no longer required is received from the Director, National Center for Drugs and Biologics.

2. By revising § 660.46 to read as follows:

§ 660.46 Samples; protocols; official release.

(a)(1) *Samples.* Unless the Director, National Center for Drugs and Biologics, determines that the reliability and consistency of the finished product can be assured with a smaller quantity of sample or no sample and specifically reduces or eliminates the required quantity of sample, each manufacturer shall submit the following samples to the Director, National Center for Drugs and Biologics, 8800 Rockville Pike, Bethesda, MD 20205, within 1 working day after the manufacturer has satisfactorily completed all tests on the samples:

(i) One sample until written notification of official release is no longer required under paragraph (c)(2) of this section.

(ii) One sample of product at periodic intervals of 90 days, beginning after written notification of official release is no longer required under paragraph (c)(2) of this section. The sample submitted at the 90-day interval shall be from the first lot or filling, as applicable, released by the manufacturer, under the requirements of § 601.1 of this chapter, after the end of the previous 90-day interval. The sample shall be identified as "surveillance sample" and shall include the date of manufacture.

(iii) Samples may at any time be required to be submitted to the Director, National Center for Drugs and Biologics, if the Director finds that continued evaluation is necessary to ensure the potency, quality, and reliability of the product.

(2) For the purposes of this section, a sample of product not iodinated with ^{125}I means a sample from each filling of each lot packaged as for distribution, including all ancillary reagents and materials; and a sample of product iodinated with ^{125}I or unlyophilized HBsAg-coated red blood cells means a sample from each lot of diagnostic test kits in a finished packaged, including all ancillary reagents and materials.

(b) *Protocols.* For each sample submitted as required in paragraph (a)(1) of this section, the manufacturer shall send a protocol that consists of a summary of the history of manufacture of the product, including all results of each test for which tests results are requested by the Director, National Center for Drugs and Biologics. The protocols submitted with the samples at periodic intervals as provided in paragraph (a)(1)(ii) of this section shall be identified by the manufacturer as "surveillance test results."

(c) *Official release.* (1) The manufacturer shall not distribute the product until written notification of official release is received from the Director, National Center for Drugs and Biologics, except as provided in paragraph (c)(2) of this section. Official release is required for at least five consecutive lots or fillings, as applicable, manufactured after licensure of the product.

(2) After written notification of official release is received from the Director, National Center for Drugs and Biologics, for samples from at least five consecutive lots or fillings manufactured after licensure of the product, and after the manufacturer receives written notification that official release is no longer required, subsequent lots or fillings may be released by the manufacturer under the requirements of § 610.1 of this chapter.

(3) The manufacturer shall not distribute lots or fillings, as applicable, of products that require sample submission under paragraph (a)(1)(iii) of this section until written notification of official release or notification that official release is no longer required is received from the Director, National Center for Drugs and Biologics.

Interested persons may, on or before October 18, 1982, submit to the Dockets Managements Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 26, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-22254 Filed 8-16-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 886 and 938

Abandoned Mine Land Reclamation Program; Grant Application From the State of Pennsylvania

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Extension of public comment period.

SUMMARY: On June 18, 1982, the State of Pennsylvania submitted to the Office of Surface Mining Reclamation and Enforcement (OSM) its proposed Abandoned Mine Land Reclamation (AMLR) grant application under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). On July 28, 1982, OSM published notice of receipt (FR 32550–32551) of the State Grant Application providing for a public comment period ending on August 12, 1982. The OSM has received a request to extend the public comment period and has decided to extend the comment period to 5:00 p.m. August 27, 1982.

DATES: Written comments on the application must be received on or before 5:00 p.m. August 27, 1982.

ADDRESS: Copies of the full text of the proposed Pennsylvania grant application are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Pennsylvania State Office, 100 Chestnut Street, Suite 300, Harrisburg, Pennsylvania 17101

Department of Environmental Resources, Office of Resources Management, Evangelical Press Building, Third and Riley Streets, Harrisburg, Pennsylvania 17120

Written comments should be sent to: Robert Biggi, State Office Director, Office of Surface Mining Reclamation and Enforcement, 100 Chestnut Street, Suite 300, Harrisburg, Pennsylvania 17101.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, (717) 782–4036.

SUPPLEMENTARY INFORMATION: On June 18, 1982, OSM received an AMLR grant application from the State of Pennsylvania. On July 12, 1982, the Secretary approved the Pennsylvania AMLR Plan.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 et seq., establishes an AMLR program for the purposes of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State and Federal law.

Each State having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA may submit to the Secretary a State reclamation grant application to implement the provisions of the approved State Reclamation Plan.

All written comments must be mailed or hand carried to the State Director's Office above.

The comment period will close at 5:00 p.m. on August 27, 1982. Comments received after that time will not be considered. During the comment period representatives of the State Director's Office will be available to meet between 8:00 a.m. and 4:00 p.m. at the request of members of the public to receive their advice and recommendations concerning the proposed State AMLR application. Persons wishing to meet with representatives of the State Director's Office during this time period may place such request with Robert Biggi, State Director, telephone (717) 782–4036, at the State Director's Office above.

Meetings may be scheduled between 9 a.m. and noon and 1 p.m. and 4 p.m. Monday through Friday excluding holidays.

OSM intends to continue to discuss the State's application with representatives of the State throughout the review process.

In order to comply with the requirements of the National Environmental Policy Act, OSM will assess the environmental effects of all State reclamation projects. The primary basis for this assessment will be the environmental information provided in the project grant application.

The Pennsylvania AMLR grant application can be approved if:

1. The Director finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The application meets all the requirements of the OSM, AMLR program provisions and the required Federal circulars.

4. The State has an approved regulatory program and an approved State reclamation plan. The following constitutes a summary of the contents of the submission:

1. Designation of authorized State Agency to administer the program.

2. Objectives and need for the assistance.

3. Project ranking and selection.

4. Coordination with other reclamation programs.

5. Results and benefits expected.

6. Plan of action pertaining to the scope.

7. Monthly or quarterly projections of accomplishments to be achieved.

8. Kinds of data to be collected and maintained.

9. Criteria used to evaluate the results and success of the projects.

10. Key individuals to be employed.

11. Precise location of the project and area to be served.

12. Budgetary calculations for each project.

13. Description of the public's participation in planning and preparation of the grant application, and

14. A complete environmental assessment for each project.

Reclamation projects included in application and location:

1. Title: Plymouth Borough, Location: West Luzerne County, Description: Surface subsidence.

2. Title: Baldwin Borough, Location: Alegheny County, Description: Possibility of mine subsidence.

3. Title: Carbondale-phase I, Location: Lackawanna County, Description: Possibility of surface subsidence.

4. Title: Centralia, Location: Columbia County, Description: Mine Fire.

List of Subjects

30 CFR Part 886

Coal mining, Grant programs—natural resources, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 938

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: August 12, 1982.

J. Steven Griles,

Acting Director.

[FR Doc. 82-22453 Filed 8-16-82; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 946

Public Disclosure of Comments Received From Federal Agencies on the Virginia Proposed Program Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Disclosure of comments.

SUMMARY: Before the Secretary of the Interior may approve State regulatory program amendments submitted under section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments from these agencies, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining, Reclamation and Enforcement, Room 5315, 1100 L Street, NW., Washington, D.C.

Office of Surface Mining Reclamation and Enforcement, Highway 23, South, Big Stone Gap, Virginia 24219

Office of Surface Mining Reclamation and Enforcement, Flannagan and Carroll Streets, Lebanon, Virginia 24266

Virginia Division of Mined Land Reclamation, 630 Powell Avenue, Big Stone Gap, Virginia 24219

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343-5361.

SUPPLEMENTARY INFORMATION: The Secretary is evaluating the proposed amendments submitted by Virginia for his review on March 31, 1982, and July 9, 1982 (Administrative Record Nos. VA 383 and 400, respectively). See the April 26, 1982 **Federal Register** (47 FR 17827-17829) and the July 23, 1982 **Federal Register** (47 FR 31897-31898). In accordance with section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i), these amendments to Virginia's program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program amendment as proposed. In this regard, the following Federal agencies were invited to comment on the Virginia program amendment:

Department of Agriculture

Soil Conservation Service
Forest Service

Advisory Council on Historic Preservation

Department of Labor

Mine Safety and Health Administration

Environmental Protection Agency

Department of the Interior

Bureau of Land Management
Bureau of Mines
Fish and Wildlife Service
National Park Service
Geological Survey

U.S. Army Corps of Engineers

Of those agencies invited to comment, OSM received comments from the following offices:

Department of Interior

Fish and Wildlife Service
Bureau of Land Management
Minerals Management Service
National Park Service

Department of Agruculture

Soil Conservation Service

Department of Labor

Mine Safety and Health Administration

These comments are available for review and copying during business hours at the locations listed above under **"ADDRESSES"**.

Dated: August 11, 1982.

Wm B. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 82-22455 Filed 8-16-82; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 948

Public Disclosure of Comments Received From Federal Agencies on the West Virginia Proposed Program Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Disclosure of comments.

SUMMARY: Before the Secretary of the Interior may approve State regulatory program amendments submitted under section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. OSM has solicited comments from these agencies, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347-7158

West Virginia Department of Natural Resources, 1800 Washington Street, East, Room 630, Charleston, West Virginia 25305, Telephone: (304) 348-9160

Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240, Telephone: (202) 343-7896

FOR FURTHER INFORMATION CONTACT: David H. Halsey, Director, West Virginia Field Office, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301, Telephone (304) 347-7158.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the proposed regulatory amendment submitted on June 17, 1982, by West Virginia to satisfy a condition imposed on the approval of the West Virginia permanent regulatory program. See the July 9, 1982 **Federal Register** (47 FR 29852). In accordance with section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i), this amendment to West Virginia's program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program amendment as proposed. In this regard, the following Federal agencies were invited to comment on the West Virginia program amendment:

Department of Agriculture

Soil Conservation Service
Forest Service

Department of Labor

Mine Safety and Health Administration

Environmental Protection Agency

Department of the Interior

Bureau of Mines
Fish and Wildlife Service
Geological Survey

U.S. Army Corps of Engineers

Of those agencies invited to comment, OSM received comments from the following offices:

Department of the Interior

Bureau of Mines
Geological Survey

These comments are available for review and copying during business hours at the locations listed under **"ADDRESSES."**

Dated: August 11, 1982.

Wm. B. Schmidt,

Assitant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 82-22454 Filed 8-16-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 2189-4]

Notification of Availability of Fluid Modeling Demonstration and Opportunity for Public Hearing

AGENCY: Environmental Protection Agency.

ACTION: Notification of Availability of Fluid Modeling Demonstration and Opportunity for Public Hearing.

SUMMARY: This notice announces the availability of a fluid modeling demonstration which would determine the stack height credit needed to avoid excess concentrations due to downwash from terrain obstacles around the Kammer Power Plant in Marshall County, West Virginia. Interested persons may request a public hearing on the fluid modeling demonstration, provided that such request is received by September 16, 1982. It is expected that a modification of the West Virginia State Implementation Plan for sulfur dioxide specific to the Kammer plant will be submitted in the future. The emission limit eventually adopted may be affected by the stack height credit contemplated in this notice.

ADDRESSES: Copies of the fluid modeling study reports are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, Attn: William Belanger

West Virginia Air Pollution Control Commission, 1558 E. Washington Street, Charleston, WV 25311, Attn: Carl Beard

Any request for public hearing should be addressed to: W. Ray Cunningham (3AW10), Chief, Air Programs & Energy Branch, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106

FOR FURTHER INFORMATION CONTACT: William Belanger, (3AW14), Technical Support & Radiation Section, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA, 19106, telephone: (215) 597-8188.

SUPPLEMENTARY INFORMATION: Section 123 of the Clean Air Act requires EPA to promulgate regulations to assure the degree of emission limitation required for control of any pollutant under an applicable State Implementation Plan is not affected by any portion of the stack height which exceeds good engineering practice. Credit is also allowed to avoid excess concentrations due to atmospheric downwash wakes and eddies created by nearby terrain obstacles. If credit is to exceed two and one-half times the height of the source, a demonstration must be made by that source to the satisfaction of the Administrator that such greater height is necessary and an opportunity for public hearing must be provided. Regulations implementing the section were promulgated on February 8, 1982 (47 FR 5864).

The Ohio Power Company has submitted a fluid modeling demonstration for their Kammer Power Plant in West Virginia. The demonstration is titled "Good Engineering Practice Stack Height, Kammer Plant, Ohio Power Company" and is dated September, 1979. The study was conducted in the fluid modeling facility (wind tunnel) at Bolt, Beranek and Newman in Cambridge, Massachusetts. The conclusion of the study is that a stack height credit of 900 feet may be allowed at the Kammer Station. The 900 feet stack has been constructed to replace the original two 600 foot stacks. While this action does not change the applicable emission limit for sulfur dioxide, it may affect the allowable emission limit in a future SIP change.

EPA has carefully evaluated the technical study submitted by Ohio Power. The study has tentatively (pending public comment) been found to be a satisfactory demonstration of the need for a 900 foot stack under the current regulation and in accordance with EPA's "Guideline for Fluid Modeling of Atmospheric Diffusion" (EPA-600/8-81-009) and "Guideline for determination of Good Engineering Practice Stack Height (Technical Support Document for the Stack Height Regulations)" (EPA-450/4-80-023). The former (highly technical) reference may be obtained from EPA's Environmental Sciences Research Laboratory and the latter general guideline from the Office of Air Quality Planning and Standards, both at Research Triangle Park, N.C., 27711.

Interested persons are invited to request a public hearing at which they will be affored an opportunity to submit evidence on the technical adequacy of the fluid modeling demonstration. Because there is now no proposed change in the emission limitation, there will be no testimony on that subject. If a hearing is held, it will be limited to the technical adequacy of the fluid modeling demonstration. In the event that the State contemplates a change in the applicable emission limitation, testimony on that subject will be taken at a separate public hearing which will be held for that purpose. The availability of the study and procedure for requesting a public hearing are given at the beginning of this notice.

Dated: August 3, 1982.

W. Wisniewski,

Acting Regional Administrator.

[FR Doc.82-22346 Filed 8-16-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF LABOR

41 CFR Part 29-70

Public Contracts and Property Management; Federal Standards for Federally Funded Grants and Agreements

AGENCY: Department of Labor.

ACTION: Proposed rules.

SUMMARY: This document proposes revisions to the audit requirements at 41 CFR 29-70.207 governing Department of Labor grants and agreements. The proposed rules incorporate the revised audit requirements set forth in Attachment P of OMB Circular A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments." The purpose of this publication is to request comment on these proposed rules.

DATE: Comments on the proposed rules are due on or before September 16, 1982.

ADDRESS: Comments should be addressed to the Assistant Inspector General for Audit, U.S. Department of Labor, 200 Constitution Ave. NW., Room S-5030, Washington, D.C. 20210. Attention: Jerome Subkow, Chief, Division of Grant and Contract Audits.

FOR FURTHER INFORMATION CONTACT:
Jerome Subkow, telephone (202) 523–8424.

SUPPLEMENTARY INFORMATION: On October 22, 1979, the Office of Management and Budget (OMB) published in the **Federal Register** (44 FR 60958) a new Attachment P to OMB Circular A–102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments." This attachment established audit requirements for State and local governments, and Indian tribal governments that receive federal assistance. The requirements were established to ensure that audits are made on an organization-wide basis, rather than on a grant-by-grant basis. Attachment P provides that OMB will designate Federal agencies as "cognizant agencies" with audit responsibility for particular recipient organizations. The proposed rules would conform the Department's audit requirements to the provisions of Attachment P.

In order to facilitate review and comment, the following provides a brief summary of each of the principal proposed changes:

The existing DOL audit requirements found at 41 CFR 29–70.207–2, 29–70.207–3, 29–70.207–4, 29–70.207a, and 29–70.207b are moved into a new section on audit requirements, 29–70.217. With the addition of such a new section the DOL regulations at 41 CFR Part 29–70 will be consistent with the format of OMB Circular A–102.

Paragraph (b) is added to specify that DOL will utilize the audit reports called for under Attachment P which cover DOL grants and agreements. It also sets forth DOL's responsibilities where DOL is designated a cognizant agency. These requirements reflect the provisions of Attachment P of OMB Circular A–102.

For ease of reference the regulations contain separate subsections on recipient audit responsibilities, audit purpose, standards, frequency, independent non-Federal audits, and resolution of audit findings. These provisions basically continue the policies in the present DOL audit regulations. Certain changes, however, have been made to conform the regulations to Attachment P. Paragraph (c)(2) has been added to indicate that recipients shall use their own procedures to arrange for independent audits. The language in paragraphs (d), Audit purpose, and (e), Audit standards, has been expanded to provide consistency with Attachment P. The provisions on independent non-Federal audits in paragraphs (g) and (h) have been broadened so as to apply to Indian tribal governments as well as state and local governments, consistent with Attachment P.

Paragraph (k)(1) is added to specify audit requirements applicable to subrecipients that are State or local governments or Indian tribal governments. This paragraph reflects the language in Attachment P concerning subrecipient audits.

Classification—Executive Order 12291

The proposed revision merely incorporates existing requirements of Attachment P, OMB Circular A–102 and the DOL audit regulations at 41 CFR 29–70.207. In addition, this proposed rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based interprises to compete with foreign-based interprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

The Department believes that the rule will have no "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 91 Stat. 1164 (5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because the amendment merely incorporates existing requirements of Attachment P, OMB Circular A–102 and the DOL audit regulations at 41 CFR 29–70.207 and is designed to simplify audit requirements, and, therefore, will not have a significant economic impact upon a substantial number of small entities. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act Certification

I, Raymond J. Donovan, Secretary of Labor, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed rules described in this document will not have a significant economic impact on a substantial number of small entities. This conclusion is reached because the proposed rule merely incorporates existing requirements of Attachment P, OMB Circular A–102 and the DOL audit regulations at 41 CFR 29–70.207 and is designed to simplify existing audit requirements.

Lists of Subjects in 41 CFR Part 29–70

Government procurement, Government contracts, Grant programs—Labor, Grants administration, Government property management, Reporting requirements.

Signed at Washington, D.C., this 10th day of August 1982.

Raymond J. Donovan,
Secretary of Labor.

PART 29–70—ADMINISTRATIVE REQUIREMENTS GOVERNING ALL GRANTS AND AGREEMENTS BY WHICH DEPARTMENT OF LABOR AGENCIES AWARD FUNDS TO STATE AND LOCAL GOVERNMENTS, INDIAN AND NATIVE AMERICAN ENTITIES, PUBLIC AND PRIVATE INSTITUTIONS OF HIGHER EDUCATION AND HOSPITALS, AND OTHER QUASI-PUBLIC AND PRIVATE NONPROFIT ORGANIZATIONS

Accordingly, it is proposed to amend Part 29–70 of Chapter 29, Title 41, of the Code of Federal Regulations as set forth below:

1. The authority citation for Part 29–70 reads as follows:

Authority: 5 U.S.C. 301; 29 U.S.C. 801 *et seq.;* 29 U.S.C. 795; 30 U.S.C. 801 *et seq.;* 29 U.S.C. 651 *et seq.;* 42 U.S.C. 3011 *et seq.;* 42 U.S.C. 501 *et seq.;* 11101 *et seq.;* 1321 *et seq.;* 29 U.S.C. 49 *et seq.;* OMB Circular No. A–102, OMB Circular No. A–110.

2. The table of contents for Part 29–70 is amended to read as follows:

* * * * *

Sec.

29–70.207 Standards for grantee financial management systems.
29–70.207–1 General.
29–70.207–2 Standards—financial management systems.
29–70.207–3 Subrecipient standards.
29–70.208 Financial reporting requirements.
* * * * *
29–70.217 Audit requirements.
29–70.217a Standards for grantee financial management systems—special requirements, nonprofit organizations.
29–70.217b Standards for grantee financial management systems—CETA requirements.

Authority: 5 U.S.C. 301; 29 U.S.C. 801 *et seq.;* 29 U.S.C. 795; 30 U.S.C. 801 *et seq.;* 29 U.S.C. 651 *et seq.;* 42 U.S.C. 3011 *et seq.;* 42 U.S.C. 501 *et seq.;* 11101 *et seq.;* 1321 *et seq.;* 29 U.S.C. 49 *et seq.;* OMB Circular No. A–102, OMB Circular No. A–110.

§ 29-70.207-2 [Amended]

3. In § 29-70.207-2, paragraphs (h) and (i) are removed.[1]

4. In § 29-70.207-3, paragraph (b) is removed, and the paragraph designation is removed from paragraph (a) and the paragraph is revised to read as follows:

§ 29-70.207-3 Subrecipient standards.

The recipient shall require each subrecipient to adopt the standards for financial management systems set forth in § 29-70.207-2, except for requirements regarding reporting forms and frequencies (paragraph (a)), and letter-of-credit procedures (paragraph (e)).

§ 29-70.207-4 [Removed]

5. Section 29-70.207-4 is removed.

§ 29-70.207a [Removed]

6. Section 29-70.207a is removed.

§ 29-70.207b [Removed]

7. Section 29-70.207b is removed.

8. A new § 29-70.217, *Audit requirements*, is added to read as follows:

§ 29-70.217 Audit requirements

(a) *DOL audit responsibilities.* The OIG is responsible for the DOL audit program. It shall oversee audits made under the provisions of OMB Circular A-102, Attachment P, where DOL is the cognizant audit agency and shall be responsible for any additional audit coverage of DOL recipients. Where a single audit under Attachment P has been performed and OIG determines that additional audit coverage is necessary, such additional coverage shall build upon the work already performed. In addition to audits of existing, completed, or terminated grants or agreements, the OIG may conduct (or arrange for the conduct of) audit surveys to evaluate the accounting systems and internal controls of a prospective recipient prior to the award or a new grant or agreement. The OIG shall ensure that an audit of each recipient is conducted no less frequently than once every 2 years, by using the audit report of a cognizant Federal agency, by accepting a non-Federal audit meeting DOL standards for independent audits, or by conducting or arranging for the Federal audit. The OIG shall provide guidance to non-Federal audit staff concerning the proper application of Federal audit standards to an audit of a DOL recipient or subrecipient.

(b) *Cognizant agency responsibilities.* (1) Attachment P of OMB Circular A-102 establishes audit requirements applicable to State and local governments and Indian tribal governments concerning Federal assistance. These requirements are designed to ensure that audits are made on an organization-wide basis rather than on a grant-by-grant basis. Attachment P provides that OMB will designate cognizant Federal agencies with audit responsibility for particular recipients. The OIG shall utilize the audit reports of a cognizant agency other than DOL when such reports cover DOL grants and agreements except insofar as the cognizant agency recommends that the audit report not be relied upon.

(2) When DOL is designated the cognizant agency, it shall have the following responsibilities:

(i) Obtain or make quality assessment reviews of the work of non-Federal audit organizations, and provide the results to other interested audit agencies. (If a non-Federal audit organization is responsible for audits of recipients that have different cognizant audit agencies, a single quality assessment review should be arranged.)

(ii) Assure that all audit reports of recipients that affect federally assisted programs are received, reviewed, and distributed to appropriate Federal audit officials.

(iii) Whenever significant inadequacies in an audit are disclosed, advise the recipient organization and call upon the auditor to take corrective action. If corrective action is not taken, DOL shall notify the recipient organization and Federal awarding agencies of the facts and its recommendation. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies.

(iv) Ensure that satisfactory audit coverage is provided in a timely manner and in accordance with the provisions of this section.

(v) Provide technical advice and act as a liaison between Federal agencies, independent auditors, and recipient organizations.

(vi) Maintain a followup system on audit findings and investigative matters to assure that audit findings are resolved.

(vii) Inform other affected audit agencies of irregularities uncovered. The audit agencies, in turn, shall inform all appropriate officials in their agencies. State or local government law enforcement and prosecuting authorities shall also be informed or irregularities within their jurisdiction.

(c) *Recipient audit responsibilities.* (1) The recipient shall arrange for audits performed by individuals who are sufficiently independent of those who authorize the expenditure of Federal funds to ensure that any opinions, conclusions, or judgments regarding audit findings are valid and unbiased (see paragraph (g) of this section).

(2) Recipients shall use their own procedures to arrange for independent audits and to prescribe the scope for audits, provided that the audits comply with the requirements of this section. Where contracts are awarded for audit services by State or local governments or Indian tribal governments, the contracts shall include a reference to Attachment P of OMB Circular A-102.

(3) The audit provisions of Circular A-102 do not apply to commercial contractors. State and local governments should use their own procedures in deciding when and where to audit commercial contracts.

(d) *Audit purpose.* Audits shall be performed to ascertain the effectiveness of the recipient's financial management, including internal procedures and controls established to meet terms and conditions of the grant or agreement. Audits shall determine whether:

(1) Financial operations are properly conducted;

(2) Financial statements are presented fairly in accordance with generally accepted accounting principles;

(3) Federal financial reports contain accurate and reliable information;

(4) Internal procedures and controls have been established to meet the requirements of Federally assisted programs; and

(5) Federal funds have been expanded in accordance with applicable laws, regulations, and administrative requirements.

(e) *Audit standards.* Audits shall be performed in accordance with the General Accounting Office "Standards for Audit of Governmental Organizations, Program, Activities & Functions," the GAO "Guidelines for Financial and Compliance Audits of Federally Assisted Programs," any compliance supplements approved by OMB, and generally accepted auditing standards established by the American Institute of Certified Public Accountants.

(f) *Frequency.* Frequency of audit shall depend on the nature, size, and complexity of the recipient's grant or agreement activities. Audits shall be conducted on a continuing basis or at regularly scheduled intervals, usually annually, but no less frequently than once every 2 years.

[1] Editorial Note: The first line of paregraph (i) was inadvertently omitted from the July 1981 edition of the Code of Federal Regulations. It appeared in the 1980 volume and will be printed in the volume revised as of July 1, 1982.

(g) *Independent non-Federal audits.* Where DOL is the cognizant agency, it will consider audits to be independent if they meet the following criteria:

(1) The audit is performed in accordance with applicable audit standards as defined in paragraph (e).

(2) The audit is performed by an independent public accountant or governmental auditor, as defined in paragraph (h).

(3) The auditor submits a copy of each audit report to the OIG for review and distribution to appropriate Federal audit officials at the same time that the report is submitted to the recipient, and makes audit work papers (which are complete, accurate, clear, understandable, neat, and pertinent to the report) available to the OIG, upon request, until all audit findings have been resolved by the DOL with respect to the recipient's grant or agreement (see § 29–70.203–3).

(h) *Independent public accountant or government auditor.* A public accountant means a certified public accountant or a licensed public accountant, licensed on or before December 31, 1970, who is certified or licensed by a regulatory authority of a State or other political subdivision of the United States. A government auditor means an employee of a State or local government or Indian tribal government audit agency. The individual is "independent" if he or she—

(1) Is free of personal, external, and organizational impairments as set forth in Chapter IV, Part B of "Standards for Audit of Governmental Organizations, Programs, Activities and Functions";

(2) Has no personal interest, directly or indirectly, in the financial affairs of the recipient being audited; and

(3) Does not perform an audit if he or she or the principal officer of the audit agency making the audit maintains accounting records being examined or reports to the officer responsible for such records; and

(4)(i) Is a State government auditor auditing a State or State agency; who meets the requirements of paragraphs (h) (1), (2) and (3) of this section; and the principal officer of the State audit agency—(A) is elected by the citizens of the State; or (B) is elected or appointed by and reports to the State legislature or a committee thereof; or (C) is appointed by the Governor and is confirmed by and reports to the State legislature or a committee thereof; or

(ii) Is a local government auditor, auditing his or her local government, who meets the requirements of paragraphs (h) (1), (2), and (3) of this section; and the principal officer of the audit agency—(A) is elected by the citizens of the local government; or (B) is elected or appointed by and reports to the governing body of the local government or (C) is appointed by the executive officer of the local government and reports to the governing body of the local government or a committee thereof; or

(iii) Is an Indian tribal government auditor, auditing his or her tribal government, who meets the requirements of paragraphs (h) (1), (2), and (3) of this section; and the principal officer of the audit agency—(A) is elected by the citizens of the tribal government; or (B) is elected or appointed by and reports to the governing body of the tribal government or (C) is appointed by the executive officer of the tribal government and reports to the governing body of the tribal government or a committee thereof; or

(iv) Is a public accountant who meets the requirements of paragraphs (h) (1), (2), and (3) of this section, and has been engaged to perform the audit by a State or local government or Indian tribal government agency.

(i) *Resolution of audit findings.* The recipient shall establish a systematic method to assure the timely and appropriate resolution of audit findings and recommendations, and shall furnish the OIG with a statement regarding resolution of findings.

(j) *Recipients other than State or local or Indian tribal governments.* The OIG will consider non-Federal audits of other recipients to be independent audits meeting DOL standards if the audits were performed in accordance with GAO "Guidelines for Financial and Compliance Audits of Federally Assisted Programs," otherwise meet GAO audit standards, and are performed by independent public accountants as defined in paragraph (h).

(k) *Subrecipient audits.* (1) Recipients shall require subrecipients that are State or local governments or Indian tribal governments to adopt the requirements in paragraphs (c) through (i) of this section. The recipient shall ensure that the subrecipient audit reports are received as required, and shall submit the reports to the cognizant agency if requested. Where no cognizant agency has been designated, recipients shall submit subrecipient audit reports covering DOL-funded programs to OIG if requested.

(2) In the event that subrecipient audits have not been made and the amount of funds are material, the scope of the recipient audit can be expanded to include testing of the subrecipient charges. Alternatively, the recipient's auditor can comment in the audit report that the subrecipient's charges were not tested.

(3) The auditing in no way lessens the recipient's responsibilities to ensure that program activities and related costs incurred by its subrecipients and contractors are in compliance with DOL requirements.

9. A new § 29–70.217a is added to read as follows:

§ 29–70.217a Standards for grantee financial management systems—special requirements, nonprofit organizations.

The standards set forth in § 29–70.217 apply except that Federal audits of recipients that are educational institutions are to be performed by the Federal agency specified in OMB Circular A–88, "Indirect Cost Rates, Audit, and Audit follow-up at Educational Institutions," dated December 5, 1979.

10. A new § 29–70.217b is added to read as follows:

§ 29–70.217b Standards for grantee financial management systems—CETA requirements.

The standards governing recipient financial management systems set forth in § 29–70.217 apply to CETA recipients except that CETA recipients may also be required to participate in unified audits (see 20 CFR 676.34b) (CETA, secs. 103(a)(4)(A), 106(j), and 133).

Signed at Washington, D.C., this 10th day of August 1982.

Alfred M. Zuck,

Assistant Secretary for Administration and Management.

[FR Doc. 82–22118 Filed 8–16–82; 8:45 am]

BILLING CODE 4510–21–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–6384]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect

in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 and Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4.

These elevations, together with the flood plain management measures required by section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the evelations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas	Unincorporated areas of Pulaski County	Arkansas River	Approximately 2,000 feet upstream of the confluence of Maumelle River.	*266
			Appproximately 250 feet upstream of the confluence of Mill Bayou.	*268
		Bayou Meto	Appproximately 1,480 feet upstream of State Highway 107.	*257
			Just upstream of Tom Box Road	*263
			Appproximately 70 feet downstream of Roderweis Road.	*286
		Brodie Creek	Just upstream of County Road located downstream of existing dam.	*345
		Callagahan Branch	Just upstream of Raines Road	*374
			Appproximately 105 feet upstream of Sullivan Road	*409
		Cane Creek	Just upstream of U.S. Highway 65	*264
			Appproximately 400 feet upstream of Ironton Road	*280
		Clark Bayou	Appproximately 520 feet downstream of Williams Avenue.	*235
		Fish Creek	Appproximately 260 feet downstream of 145th Street	*241
			Appproximately 500 feet downstream of German Road	*250
			Appproximately 130 feet downstream of U.S. Highway 65.	*268
		Fivemile Creek	Appproximately 2.6 miles upstream of confluence with Bayou Meto.	*250
		Fourche Creek	Appproximately 60 feet upstream of Spartis Road	*415
			Appproximately 210 feet upstream of Lawson Road	*437
		Harris Bayou	Just upstream of the Fourche Island to Pennington Bayou Levee.	*231
		Häw Brach	Appproximately 270 feet upstream of Colonel Carl Miller Road.	*330
			Just upstream of Crystal Valley Road	*340
		Ison Creek	Appproximately 3,800 feet upstream of confluence with Little Maumelle River.	*270
		Jack Bayou	Appproximately 1,600 feet upstream of the Missouri Pacific Railroad.	*258
		Jack Bayou Tributary	Approximately 300 feet upstream of U.S. Highway 67 & 167.	*259
			Just upstream of State Highway 161	*261
		Kellogg Creek	Just upstream of BAtesville Pike	*260
		Kinley Creek	Just downstream of State Highway 10	*308
			Just upstream of Garrison Road (downstream crossing).	*394
			Just upstream of Garrison Road (upstream crossing)	*414
		Landmark Branch	Just upstream of Circle Lake Road	*310
			Just downstream of Mail Route Road	*337
		Little Maumelle River	Appproximately 370 feet downstream of State Highway 300.	*267

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of State Highway 10	*292
			Appproximately 100 feet upstream of the downstream crossing of Ferndale Cutoff Road.	*307
			Just upstream of Kanis Road	*376
		McHenry Creek	Appproximately 160 feet downstream of the downstream crossing of Lawson Road.	*339
		Mill Bayou	Appproximately 900 feet upstream of downstream crossing of State Highway 300.	*263
		Mill Bayou Tributary	Appproximately 4,000 feet upstream of the confluence with Mill Bayou.	*265
		North Channel Taylor Loop Creek	Appproximately 1,500 feet upstream of State Highway 10.	*296
		Nowlin Creek	Appproximately 200 feet upstream of Barrett Road	*283
			Appproximately 430 feet upstream of Goodson Road	*333
		Panther Branch	Appproximately 160 feet upstream of the Interstate Highway 430 Culvart Inlet.	*336
		Pennington Bayor-Lorance Creek	At Lorance Trail	*253
			Approximately 3,700 feet upstream of County Road 367 (Arch Street Pike).	270
		Rock Creek	Approximately 100 feet upstream of Kanis Road (upstream crossing).	*485
		Taylor Loop Creek	Just downstream of upstream confluence of North Channel Taylor Loop Creek.	*306
		Treadway-Brewer Branch	Approximately 80 feet upstream of Singley Road	*278
			Approximately 60 feet downstream of Atwood Road	*306
		White Oak Bayou	Approximately 2,600 feet downstream of Missouri Pacific Railroad.	*263
			Approximately 450 feet downstream of State Highway 365.	*266
		Fourch Bayou (Shallow Flooding)	At Frazier Pike	*237

Maps available for inspection at Room 902 Wallace Building, Markham and Main Streets, Little Rock, Arkansas 72201.

Send comments to Judge W. E. Beaumont, Pulaski County Courthouse or Ms. Marie Flickinger, Program Manager, Room 902, Wallace Building, Markham and Main Streets, Little Rock, Arkansas 72201.

Connecticut	New Haven, city, New Haven County	Long Island Sound	Entire shoreline of New Haven Harbor within community.	*14
			Entire shoreline of West River from the upstream side of Kimberly Avenue to the downstream side of first Conrail bridge.	*12
			Entire shoreline of West River from the downstream side of first Conrail bridge to a point approximately 90 feet downstream of Edgewood Avenue.	*11
			Entire shoreline of Quinnipiac River from downstream side of Forbes Avenue to a point 150 feet northeast of James Street (extended).	*13
			Entire shoreline of Quinnipiac River from a point 150 feet northeast of James Street (extended) to Ferry Street.	*12
			Entire shoreline of Quinniplac River upstream of Ferry Street.	*11
			Entire shoreline of Mill River from the confluence with Quinnipiac River to Chapel Street.	*12
			Entire shoreline of Mill River upstream of Chapel Street.	*11

Maps available for inspection at the Offices of the City Planner and City Engineer, 157 Church Street, New Haven, Connecticut.

Send comments to Honorable Biagio DiLieto, Mayor of New Haven, 157 Church Street, New Haven, Connecticut 06510.

Delaware	Sussex County	Atlantic Ocean	From Cape Henlopen to approximately 2.18 miles south of Indian River Inlet.	*13
			From approximately 2.18 miles south of Indian River Inlet to approximately 0.23 mile south of Bethany Beach southern corporate limits.	*12
			From approximately 0.23 mile south of Bethany Beach southern corporate limits to approximately 0.07 mile south of South Bethany southern corporate limits.	*11
			From approximately 0.07 mile south of South Bethany southern corporate limits to state boundary.	*13
		Delaware Bay	Entire shoreline within county	*13

Maps available for inspection at the Office of Planning and Zoning, Sussex County Courthouse, Georgetown, Delaware.

Send comments to Honorable Joseph G. Conaway, Sussex County Administrator, P.O. Box 407, Georgetown, Delaware 19947.

Illinois	(C), Grant Tower, Jackson County	Mississippi River	Downstream corporate limits	*372
			Upstream corporate limits	*375

Maps available for inspection at City Clerk's Office, Grand Tower, Illinois.

Send comments to Honorable Bernard Clover, Mayor, City of Grant Tower, P.O. Box 253, Grand Tower, Illinois 62943.

Illinois	(C), Leland Grove, Sangamon County	Jacksonville Branch	At downstream corporate limits	*563
			About 2,200 feet upstream of Cherry Road	*570
		Jacksonville Branch Tributary	At mouth of Jacksonville Branch	*569
			Just downstream of Wiggins Avenue	*571

Maps available for inspection at the Springfield-Sangamon County Regional Planning Commission, 703 Meyers Building, 1 West Old State Capitol Plaza, Springfield, Illinois.

Send comments to Honorable Theodore J. Schlitt, Mayor, City of Leland Grove, 300 South Grand West, Springfield, Illinois 62704.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(Unincorporated areas), Peoria County	Illinois River	At downstream county boundary	*455
			At upstream county boundary	*460
		Kickapoo Creek	About 2.2 miles downstream of State Route 116	*463
			About 0.6 mile downstream of Taylor Road	*501
			Just upstream of Interstate 74	*529
			Just downstream of Grange Hall Road	*555
		Spoon River	About 1,700 feet downstream of Township Road	*608
			At upstream county boundary	*626
		Dry Run Creek	Just downstream of Swords Avenue	*480
			About 0.27 mile upstream of West Farmington Road	*511
		Boyds Hollow Creek	About 750 feet downstream of Chicago, Rock Island and Pacific Railroad.	*460
			At upstream corporate limits of the City of Peoria	*544
		Springdale Creek	At downstream corporate limits of the City of Peoria	*526
			At upstream corporate limits of the City of Peoria	*573
		North Fork Tributary Big Hollow Creek.	At downstream corporate limits of the City of Peoria	*669
			Just upstream of West Willow Knolls Drive	*701
			About 100 feet upstream of West Willow Knolls Drive	*712
			At upstream corporate limits of the City of Peoria	*731
		Big Hollow Creek	About 1,200 feet downstream of Old Big Hollow Road	*569
			At upstream corporate limits of the City of Peoria (About 600 feet upstream of Chicago and North Western railroad).	*588
		Poppet Hollow Creek	About 900 feet downstream of Chicago, Rock Island and Pacific Railroad.	*460
			At upstream corporate limits of the City of Peoria (0.6 mile upstream of State Route 29).	*525
		Unnamed Tributary to Kickapoo Creek.	At downstream corporate limits of the City of Bartonsville.	*474
			At upstream of corporate limits of the City of Bartonsville.	*501

Maps available for inspection at the County Zoning Department, Peoria County Courthouse, 300 Main Street, Peoria, Illinois.

Send comments to Honorable Gary F. Stella, Chairman of the Peoria County Board, Peoria County, Peoria County Courthouse, 300 Main Street, Peoria, Illinois 61602.

Illinois	(C), West Frankfort, Franklin County	Ewing Creek	About 4,000 feet upstream of mouth	*387
			About 500 feet downstream of Deering Road	*389
		Pond Creek	Just upstream of Interstate 57	*394
			About 1,800 feet upstream of McClelland Street	*398
		Big Ditch Tributary	Just upstream of Missouri Pacific Railroad	*384
			About 400 feet upstream of Illinois Street	*388
		Shallow Flooding (ponding from rainfall).	Intersection of 7th Street and Jefferson Street	*393

Maps available for inspection at the City Clerk's Office, City Hall, 208 North Emma Street, West Frankfort, Illinois.

Send comments to Honorable Mike McClatchey, Mayor, City of West Frankfort, City Hall, 208 North Emma Street, West Frankfort, Illinois 62896.

Iowa	(C), Ankeny, Polk County	Four Mile Creek	About 1.4 miles downstream of East First Street	*880
			About 1,500 feet upstream of East First Street	*888
			Just downstream of Interstate 35	*898
			About 700 feet upstream of Interstate 35	*899
			About 4,950 feet downstream of Northeast 110th Avenue.	*904
			Just downstream of Northeast 110th Avenue	*909
		Saylor Creek	Just upstream of State Highway 415	*875
			Just upstream of Southwest Oralabor Road	*909
			Just downstream of College Road	*920
			Just upstream of College Road	*931
			About 750 feet upstream of College Road	*931
		Saylor Creek Tributary	At confluence with Saylor Creek	*878
			Just downstream of Southwest Oralabor Road	*892
			Just upstream of Southwest Oralabor Road	*900
			Just downstream of unnamed road which is about 2,500 feet downstream of Southwest 86th Avenue.	*924
			Just upstream of unnamed road which is about 2,500 feet downstream of Southwest 86th Avenue.	*931
			Just downstream of Southwest 86th Avenue	*952
			Just upstream of Southwest 86th Avenue	*966
		Tributary A	Just downstream of Interstate 35	*897
			Just upstream of Northeast Delaware Avenue	*908
			Just downstream of Northeast 102nd Avenue	*931
		Tributary D	Just upstream of Northwest 16th Street	*941
			About 150 feet upstream of Northwest 16th Street	*945
			Just downstream of Northwest Greenwood Street	*949
			Just upstream of Northwest Greenwood Street	*954
			About 1,775 feet upstream of Northwest Greenwood Street.	*955
		Tributary E	Mouth at Tributary D	*945
			About 150 feet downstream of Northwest Greenwood Avenue.	*945
			About 450 feet upstream of Northwest Greenwood Avenue.	*950

Maps available for inspection at the City Engineer's Office, City Hall, 211 S.W. Walnut, Ankeny, Iowa.

Send comments to Honorable Ollie Weigel, Mayor, City of Ankeny, City Hall, 211 S.W. Walnut, Ankeny, Iowa 50021.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maryland	Anne Arundel County	Patapsco River	Downstream County boundary	*10
			Upstream Harbor Tunnel Thruway	*15
			Upstream Baltimore and Annapolis Railroad	*18
			Upstream Baltimore-Washington Parkway	*20
			Upstream Interstate Route 695	*23
			Upstream Conrail	*25
			Upstream County boundary	*26
		Cabin Branch	Downstream County boundary	*8
			Approximately 150 feet upstream Chessie System	*16
			Approximately 100 feet upstream Interstate Route 695	*34
			Upstream State Route 2	*51
			Upstream Harbor Tunnel Thruway	*65
			Upstream State Route 3	*84
			Approximately 300 feet upstream of Old Annapolis Road.	*100
			Upstream Baltimore and Annapolis Railroad	*116
		Sawmill Creek	Downstream Governor Ritchie Highway (State Route 2).	*8
			Upstream 8th Avenue	*21
			Upstream Old Annapolis Road	*31
			Upstream Central Avenue	*37
			Upstream Stewart Street	*50
			Upstream Queenstown Road	*78
			Upstream Chase Drive	*83
			Upstream Washington Baltimore & Annapolis Road	*104
		Marley Creek	Approximately 150 feet upstream State Route 2	*16
			Approximately 300 feet upstream State Route 100	*22
			Approximately 150 feet upstream Oakwood Road	*26
			Upstream Elvaton Road	*29
		Severn Run	Approximately 375' downstream Crain Highway	*7
			Upstream Crain Highway	*13
			Upstream New Cut Road	*48
			Upstream Burns Crossing Road	*78
			Upstream Telegraph Road	*88
			Downstream Conrail	*98
		Patuxent River	Downstream County boundary	*8
			Upstream State Routes 4 and 408	*15
			Upstream State Route 214	*28
			Upstream U.S. Routes 50 and 301	*41
			Upstream Conrail	*68
			Upstream Duvall Bridge	*86
			Upstream Baltimore-Washington Parkway	*115
			Upstream of Laurel Fort Meade Road	*136
			Upstream County boundary	*141
		Little Patuxent River	At confluence with Patuxent River	*43
			Upstream State Route 424	*55
			Approximately 250' upstream of Conrail	*82
			Upstream New Tank Road	*102
			Upstream State Route 198	*109
			Upstream Baltimore-Washington Parkway	*124
			Upstream County boundary	*133
		Chesapeake Bay	Rock Point	*11
			Bodkin Point to Beach Drive (extended)	*10
			Mountain Point	*11
			U.S. Route 50 and 301 (Chesapeake Bay Bridge)	*10
			Tolly Point	*10
			Curtis Point	*10
			Long Point	*10
			Southern County boundary at Chesapeake Bay shoreline.	*10

Maps available for inspection at the Office of Planning and Zoning, Room 202, Arundel Center, Annapolis, Maryland.

Send comments to Honorable Robert A. Pascal, Anne Arundel County Executive, Arundel Center, P.O. Box 1439, Annapolis, Maryland 21404.

Maryland	Ocean City, town, Worcester County	Atlantic Ocean	Entire shoreline within community	*13
			Shoreline of Assawoman Bay from northern corporate limits to Ocean City Expressway.	*6
			Shoreline of Isle of Wight Bay from Ocean City Expressway to North 15th Street (extended).	*6
			Shoreline of Isle of Wight Bay from North 15th Street (extended) to U.S. Route 50.	*7
			Shoreline of Isle of Wight Bay from U.S. Route 50 to South Second Street (extended).	*8
			Shoreline of Isle of Wight Bay from South Second Street (extended) to southern corporate limits.	*9

Maps available for inspection at the Engineering Department, City Hall, Third and Baltimore Streets, Ocean City, Maryland.

Send comments to Honorable Anthony W. Barrett, Town Manager of Ocean City, P.O. Box 158, Ocean City, Maryland 21842.

Michigan	(C), Dearborn Heights, Wayne County	Middle River Rouge	About 300 feet downstream of Hines Drive	*598
			Just downstream of Inkster Road	*614
		North Branch Ecorse Creek	Just upstream of Southfield Freeway	*601
			Just upstream of southbound Telegraph Road	*615
			Just downstream of Inkster Road	*622

Maps available for inspection at the City Hall, 6045 Fenton, Dearborn Heights, Michigan.

Send comments to Honorable Donald Bishop, Mayor, City of Dearborn Heights, City Hall, 6045 Fenton, Dearborn Heights, Michigan 48127.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(Twp.), Emmett, Calhoun County	Kalamazoo River	At downstream corporate limit	*832
			Just upstream of Interstate 94	*648
		Minges Brook	At confluence with Kalamazoo River	*833
			About 2,600 feet upstream of Golden Avenue	*837
			About 150 feet upstream of Interstate 194	*864
		Harper Creek	Mouth at Minges Brook	*844
			Just upstream of Beadle Lake Road (downstream crossing).	*853
			Just upstream of E Drive South	*860
			Just upstream of D Drive North (Hoover Drive)	*867
			About 1,880 feet upstream of D Drive North (Hoover Drive).	*871
		Beadle Lake	Within the community	*891

Maps available for inspection at the Township Hall, 620 Cliff Street, Battle Creek, Michigan.
Send comments to Honorable Cyril Bachorik, Supervisor, Township of Emmett, Township Hall, 620 Cliff Street, Battle Creek, Michigan, 49017.

Michigan	(C), Lowell, Kent County	Grand River	About 1.0 mile downstream of confluence of Lee Creek.	*634
			About 0.85 mile upstream of Division Street	*636
		Flat River	Within corporate limits	*635

Maps available for inspection at the City Hall, 301 East Main Street, Lowell, Michigan.
Send comments to Honorable Dean E. Collins, Mayor, City of Lowell, City Hall, 301 East Main Street, Lowell, Michigan 49331.

Michigan	(C), Portage, Kalamazoo County	Portage Creek	Just upstream of West Kilgore Road	*820
			Just upstream of West Milham Road	*840
			Upstream side of Hampton Lake	*855
		West Fork Portage Creek	About 200 feet upstream of Kilgore Road	*847
			About 200 feet upstream of Westnedge Avenue	*853
			About 700 feet upstream of Oakland Drive	*863
		Consolidated Drain No. 1	Mouth at Portage Creek	*842
			Just downstream of Romence Road	*846
		Gourdneck Canal	Just downstream of Osterhout Road	*859
		Austin Lake	Shoreline	*857
		West Lake	Shoreline	*857
		Groudneck Lake	Shoreline	*854
		Sugarloaf Lake	Shoreline upstream of Shaver Road	*861
			Shoreline downstream of Shaver Road	*860
		Little Sugarloaf Lake	Shoreline	*861

Maps available at City Hall, 7800 Shaver Road, Portage, Michigan.
Send comments to Honorable Engel Corstange, Mayor, City of Portage, City Hall, 7800 Shaver Road, Portage, Michigan 49081.

Michigan	(V), South Rockwood, Monroe County	Huron River	At downstream corporate limit	*580
			Just upstream of Interstate 75	*586
			About 2.3 miles upstream of Interstate 75	*589
		Bancroft Noles Drain	At mouth at Huron River	*584
			About 0.75 mile upstream of Brandon Road	*591
		Laudenschlager	About 300 feet downstream of Haggerman Road	*580
			Just downstream of Detroit and Toledo Shoreline	*583
			About 1,100 feet upstream of Ready Road	*586
		Huron River Diversion to Bancroft Noles Drain.	Within community	*587

Maps available for inspection at the Village Hall, 5676 Carleton—South Rockwood Road, South Rockwood, Michigan.
Send comments to Honorable Morley Riggs, Village President, Village of South Rockwood, Village Hall, 5676 Carleton—South Rockwood Road, South Rockwood, Michigan 48179.

Michigan	(C), Troy, Oakland County	Gibson-Renshaw Drain	Just upstream of Dequindre Road	*642
			Just upstream of John R. Road	*656
			Just upstream of Square Lake Road	*682
			About 2,300 feet upstream of Lovell Road	*690
		Gibson-Renshaw West Drain	At confluence with Gibson Drain	*679
			About 1,450 feet upstream of Livernois Road	*752
		Houghton Drain	At inlet to Henry Graham Drain	*645
			Just upstream of Calvert Road	*663
			Just upstream of Long Lake Road	*668
		Houghton Drain East	At mouth	*638
			Just downstream of Wattles Road	*638
		Kirts Drain	Just upstream of culvert inlet (about 200 feet south of intersection of Kirts Road and Heide Road).	*685
			Just downstream of Crooks Road	*698
		Spencer-Barnard Drain	Just upstream of Dequindre Road	*632
			Just upstream of John R. Road	*638
			Just downstream of Rochester Road	*654
			About 3,200 feet upstream of Maple Street	*668
		River Rouge	Just upstream of Adams Road	*767
			Just upstream of Coolidge Road	*786
			Just downstream of southbound Interstate 75	*794
			Just upstream of Square Lake Road	*798
			At confluence of Sprague Drain	*799
		Sprague Branch	Just upstream of Coolidge Road	*805
			About 200 feet upstream Beach Road	*826
			Just downstream of Adams Road	*837
		Sprague Drain	Just downstream of South Boulevard	*800
		Shanahan Drain	Just upstream of Dequindre Road	*636

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 700 feet upstream of Fernleigh	*641
			Just upstream of inlet to Henry Graham Drain	*642
			Just downstream of John R. Road	*646
		Lane Drain	At confluence with Strugis Drain	*665
			Just downstream of Livernois Road	*669
			About 200 feet upstream of Livernois Road	*674
			About 1,350 feet upstream of Livernois Road	*676
		Hawthorn Drain	Just upstream of Dequindre Road	*630
			About 700 feet upstream of Minnesota Road	*634
		Sturgis Drain	Just upstream of inlet to Douglas Drain	*645
			Just upstream of Wilton Road	*683
			Just downstream of Livernois Road	*695

Maps available for inspection at the City Hall, 500 West Big Beaver, Troy, Michigan.

Send comments to Honorable Richard Boyle, Mayor, City of Troy, City Hall, 500 West Big Beaver, Troy, Michigan 48084.

Minnesota	(C), La Crescent, Houston County	Pine Creek	Just upstrem of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*645
			About 4,260 feet upstream of U.S. Highway 16	*656
		Mississippi River	About 5,300 feet downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*644
			About 1,700 feet upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*645

Maps available for inspection at the Clerk Administrator's Office, City Hall, P.O. Box 142, La Crescent, Minnesota.

Send comments to Honorable Ottis Adamson, Mayor, City of La Crescent, City Hall, P.O. Box 142, La Crescent, Minnesota 55947.

Minnesota	(Unincorporated areas), Winona County	Mississippi River	About 0.8 mile downstream of Interstate 90	*645
			Upstream county boundary	*666
		Whitewater River	At confluence with South Fork Whitewater River	*734
			About 0.3 mile upstream of confluence with South Fork Whitewater River.	*736
		North Fork Whitewater River	About 1.1 miles downstream of Township Road 29 (downstream crossing).	*759
			About 1,000 feet upstream of Township Road 29 (upstream crossing).	*784
		South Fork Whitewater River	About 300 feet downstream of the City of St. Charles corporate limits.	*1,103
			Just downstream of the City of St. Charles corporate limits.	*1,104
		Middle Fork Whitewater River	About 0.5 mile downstream of County Highway 39	*762
			About 150 feet downstream of County Highway 39	*772
		Gilmore Creek	Mouth at Boller Lake	*662
			About 100 feet downstream of U.S. Highway 14	*672
			About 0.8 mile downstream of Loucks Drive	*704
			About 0.3 mile downstream of Speltz Drive	*740
		Homer Creek	Mouth at Mississippi River	*657
			About 1.5 miles upstream of County Highway 15	*768
		Pleasant Valley Creek	Just upstream of County Highway 15	*662
			About 1,000 feet upstream of Meadowbrook Drive	*929
		Burns Valley Creek-East Burns Valley Creek.	About 0.6 mile upstream of County Road 105	*684
			About 1,400 feet upstream of confluence of West Burns Valley Creek.	*700
		West Burns Valley Creek	At confluence with Burns Valley Creek	*695
			About 0.4 mile upstream of confluence with Burns Valley Creek.	*704
		Speltz Creek	At confluence with Rollingstone Creek	*718
			Just upstream of Winona Road	*719
			About 1.0 mile upstream of Winona Road	*730
		Rollingstone Creek	About 1,250 feet upstream of State Highway 248 (downstream crossing).	*718
			About 1.0 mile upstream of State Route 248 (upstream crossing).	*731
		Peterson Creek	At confleunce with Garvin Brook	*870
			About 0.4 mile upstream of U.S. Highway 14	*911
		South Creek	At City of Dakota corporate limits	*688
			About 150 feet upstream of City of Dakota corporate limits.	*691
		West Tributary	About 0.4 mile upstream of U.S. Highway 14	*781
			About 150 feet upstream of City of Stockton corporate limits.	*825
		Garvin Brook	About 1.3 miles upstream of mouth (at Minnesota City corporate limits).	*671
			Just downstream of Chicago and North Western Railroad.	*685
			Just upstream of Chicago and North Western Railroad	*690
			About 1.2 miles upstream of Chicago and North Western railroad.	*694
			About 550 feet downstream of confluence of West Tributary.	*766
			About 0.2 mile downstream of County Road 120 (downstream crossing).	*837
			About 0.6 mile upstream of County Road 120 (upstream crossing).	*907
		Crooked Slough	Around the City of Winona	*654
		Boilers Lake	Shoreline	*662
		Shallow Flooding (overflow from Gilmore Creek).	Between left bank levee along Gilmore Creek and Goodview Road.	*662

Maps available for inspection at the Zoning Administrator's Office, Winona County Courthouse, 203 West Third Street, Winona, Minnesota.

Send comments to Honorable Arthur Persons, Zoning Administrator, Winona County, Winona County Courthouse, 203 West Third Street, Winona, Minnesota 55987.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Missouri	(Unincorporated), Jefferson County	Mississippi River	At confluence of Isle Du Bois Creek	*405
			At City of Arnold corporate limits	*417
		Big River	At mouth	*450
			Just downstream of Byrnesville Road	*462
			Just downstream of Wane Road	*508
			Just downstream of State Highway 21	*585
			About 4.0 miles upstream of Upper Blackwell Road (at upstream of county boundary).	*612
		Meramec River	At City of Arnold corporate limits	*417
			About 2.8 miles downstream of confluence of Big River.	*447
			About 0.25 mile upstream of County Highway F	*465
		Saline Creek	At mouth	*419
			About 1,800 feet upstream of Cool Valley Drive	*420
			Just upstream of Delores Drive	*475
			Just downstream of Old Gravois Road	*491
			Just upstream of Old Gravois Road	*496
			Just downstream of Saline Lane	*504
			Just upstream of Saline Lane	*510
			Just downstream of New Sugar Creek Road	*547
		Rock Creek	At mouth	*416
			About 2,100 feet downstream of Windmill Road	*420
			Just downstream of Lemay Ferry Road	*479
		Glaize Creek	At mouth	*415
			Just upstream of Parkton Road	*425
			Just downstream of Moss Hollow Road	*438
		Joachim Creek	At mouth	*412
			Just downstream of County Highway A	*418
			About 2,400 feet upstream of Hematite Road	*434
			About 1,800 feet downstream of confluence of Ball Branch.	*472
			Just upstream of County Highway E	*523
			About 1,700 feet upstream of County Highway E	*527
		Plattin Creek	At mouth	*411
			Just downstream of Interstate 65	*416
			Just downstream of Upper Plattin Road	*439
		Tanyard Branch	About 75 feet downstream of Plum Street	*522
			About 650 feet upstream of Elm Street	*538

Maps available for inspection at the Jefferson County Courthouse, Hillsboro, Missouri.

Send comments to Honorable Ralph Krodinger, Presiding Judge, Jefferson County, Jefferson County Courthouse, Hillsboro, Missouri 63050.

Missouri	(Unincorporated), Lincoln County	Mississippi River	About 8.0 miles downstream of Lock and Dam No. 25	*444
			About 4.0 miles upstream of Lock and Dam No. 25	*447
			At upstream county boundary	*451
		Cuivre River	Just downstream of Burlington Northern railroad	*445
			At confluence of Big Creek	*456
			About 2.2 miles downstream of confluence of Buchanan Creek.	*464
			About 500 feet downstream of State Route 47	*472
			About 1.9 miles upstream of State Route 47	*478
		Buchanan Creek	At mouth at Cuivre River	*469
			Just downstream of Old Cap Au Gris Street	*472
			Just upstream of Abandoned Railroad	*478
			About 0.21 mile upstream of U.S. Highway 61	*499
			About 0.32 mile upstream of Main Street (in City of Troy).	*536
		Town Branch	At mouth at Buchanan Creek	*472
			About 1.0 mile upstream of State Route 47	*476
		McLean Creek	About 0.15 mile downstream of Burlington Northern railroad.	*446
			About 0.37 mile upstream of State Route 79	*453
		Mill Creek	At mouth at North Fork Cuivre River	*511
			About 0.76 mile upstream of County Route E	*520
		North Fork Cuivre River	About 0.2 mile downstream of confluence of Mill Creek.	*510
			About 0.2 mile upstream of County Route E	*514
		Big Creek	Just downstream of U.S. Route 61	*468
			About 2.8 miles upstream of U.S. Route 61	*479

Maps available for inspection at the Lincoln County Courthouse, Troy, Missouri.

Send comments to Honorable Gary Hoffman, Presiding Judge, Lincoln County, Lincoln County Courthouse, Troy, Missouri 63379.

Missouri	(C), Warrenton, Warren County	Big Creek	About 0.86 mile downstream of Fairlane Acres Road	*727
			Just downstream of Interstate 70	*762
			Just upstream of Old U.S. Highway 40	*768
			About 300 feet downstream of Norfolk and Western Railroad.	*771
			About 500 feet upstream of Norfolk and Western Railroad.	*785
			About 0.9 mile upstream of County Highway MM	*822
		Hickory Lick Creek	About 2.05 miles downstream of County Highway AA	*731
			Just downstream of Old U.S. Highway 40	*790
		Big Creek Tributary	At mouth	*769
			About 0.8 mile upstream of Middletown Road	*783

Maps available for inspection at the City Hall, 202 West Booneslick Road, Warrenton, Missouri.

Send comments to Honorable Fayette Paul, Mayor, City of Warrenton, City Hall, 202 West Booneslick Road, Warrenton, Missouri 66383.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Nebraska	(c), McCook, Red Willow County	Republican River	About 5.7 miles downstream of U.S. Highway 83	*2,433
			Just upstream of U.S. Highway 83	*2,476
			About 5.7 miles upstream of U.S. Highway 83	*2,513
		Kelly Creek	At confluence with Republican River	*2,440
			Just downstream of Burlington Northern Railroad	*2,477
			Just upstream of Burlington Northern Railroad	*2,484
			Just downstream of U.S. Highway 6	*2,485
			Just upstream of U.S. Highway 6	*2,491
			Just downstream of Eleventh Street East	*2,491
			Just upstream of Eleventh Street East	*2,496
			Just upstream of H Street	*2,501
			Just downstream of Norris Avenue	*2,509
			Just upstream of Norris Avenue	*2,516
			Just upstream of Third Street West	*2,516
		East Fork Kelly Creek	Mouth at Kelly Creek	*2,501
			Just downstream of Dam No. 2	*2,508

Maps available for inspection at the City Hall, McCook, Nebraska.

Send comments to Honorable Irvin A. Westfahl, Mayor, City of McCook, City Hall, P.O. Box 959, McCook, Nebraska 69001.

New Jersey	Englewood, city, Bergen County	Overpeck Creek	Downstream corporate limits	*9
			Englewood Avenue (upstream side)	*14
			Slocum Avenue (upstream side)	*27
			Upstream Cemetary Road	*60
			Upstream corporate limits	*86
		Tributary to Overpeck Creek	Confluence with Overpeck Creek	*9
			Approximately 1/3 mile upstream of confluence with Overpeck Creek.	*12
		Metzlers Creek	At confluence with Overpeck Creek	*9
			Liberty Road (downstream side)	*21
			Hudson Avenue (upstream side)	*58
		Flat Rock Brook	Downstraeam corporate limits	*9
			Broad Avenue (upstream side)	*28
			Rosewood Avenue (upstream side)	*68
			Van Nostrand Avenue (upstream side)	*127

Maps available for inspection at the City Hall, Englewood, New Jersey.

Send comments to Honorable Sondra Greenburg, Mayor of the City of Englewood, P.O. Box 228, Englewood, New Jersey 07631.

New Jersey	Island Heights, borough, Ocean County	Barnegat Bay	Toms River downstream of Long Point	*8
			Toms River upstream of Long Point	*6
			Upstream of Dillon Creek's confluence with Toms River.	*7
			Upstream of a point approximately 0.4 mile upstream of Dillon Creek's confluence with Toms River.	*6

Maps available for inspection at the Borough Hall, East End of VanSant Avenue, Island Heights, New Jersey.

Send comments to Honorable Joseph Bloom, Mayor of Island Heights, P.O. Box AH, Island Heights, New Jersey 08732.

New Jersey	Manchester, Township, Ocean County	Toms River	Confluence of Union Branch	*22
			State Route 70 (upstream side)	*43
			Conrail (upstream side)	*56
		Union Branch	Confluence with Toms River	*22
			Ridgeway Avenue (upstream side)	*29
			Confluence of Ridgeway Branch	*35
			Colonial Drive (upstream side)	*48
			Wrangle Brook Road (upstream side)	*53
			Brook Street (upstream side)	*58
		Manapaqua Brook	Confluence with Union Branch	*50
			Ridgeway Road (upstream side)	*60
		Ridgeway Branch	Confluence with Union Branch	*35
			State Route 70 (downstream side)	*40
			Conrail (upstream side)	*49
			State Route 547 (upstream side)	*57
		Tributary to Ridgeway Branch	Confluence with Ridgeway Branch	*42
			Ridgeway Road (upstream side)	*56
			Wilbur Avenue (upstream side)	*60
		Davenport Branch	425 feet upstream of downstream corporate limits	*99
			Approximately 6,860' upstream of downstream corporate limits.	*112
			Access Road (upstream side)	*127
			Lacey Road (upstream side)	*132

Maps available for inspection at the Municipal Building, One Colonial Drive, Lakehurst, New Jersey.

Send comments to Honorable Anthony Sussex, Mayor of Manchester Township, One Colonial Drive, Lakehurst, New Jersey 08733.

New Jersey	Teaneck, Township, Bergen County	Overpeck Creek	Downstream corporate limits	*9
			Upstream corporate limits	9
		Hackensack River	Entire shoreline within community	*9
		Frenchs Creek	Downstream corporate limits	*9
			Upstream of River Road	*15
			Upstream corporate limits at New Bridge Road	*16
		Metzler's Creek	Downstream corporate limits	*58

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream corporate limits	*59
		Teaneck Creek	Confluence with Overpeck Creek	*9
			At DeGraw Avenue	*9
Maps available for inspection at the Municipal Building, 818 Teaneck Road, Teaneck, New Jersey.				
Send comments to Honorable Francis E. Hall, Mayor of Teaneck Township, 818 Teaneck Road, Teaneck, New Jersey 07666.				
New Jersey	Tuckerton, borough, Ocean County	Atlantic Ocean (Tidal flooding affecting Little Egg Harbor).	Shoreline of Little Egg Harbor	*8
		Mill Branch	Downstream of Nugentown Road	*11
Maps available for inspection at the Municipal Building, 140 East Main Street, Tuckerton, New Jersey.				
Send comments to Honorable Boyd L. Midgett, Mayor of Tuckerton, 140 East Main Street, Tuckerton, New Jersey 08087.				
New York	Avoca, village, Steuben County	Cohocton River	Downstream corporate limits	*1,184
Maps available for inspection at the Village Hall, 3 Chase Street, Avoca, New York.				
Send comments to Honorable Glenn Davis, Mayor of Avoca, Village Hall, 3 Chase Street, Avoca, New York 14809.				
New York	Baxter Estates, village, Nassau County	Manhassett Bay	Entire shoreline	*13
Maps available for inspection at the Village Hall, Two Harbor Road, Port Washington, New York.				
Send comments to Honorable Maurice Mandel, Mayor of Baxter Estates, Two Harbor Road, Port Washington, New York 11050.				
New York	Cohocton, town, Steuben County	Cohocton River	Downstream corporate limits	*1,289
			Upstream of Cohocton Street	*1,294
			Downstream of Beecher Street	*1,314
Maps available for inspection at the Office of the Town Clerk, Town Hall, 15 South Main Street, Cohocton, New York.				
Send comments to Honorable Edwin DeVoe, Town Supervisor of Cohocton, 15 South Main Street, Cohocton, New York 14826.				
New York	Cohocton, village, Steuben County	Cohocton River	Downstream corporate limits	*1,275
			Upstream Maple Avenue	*1,284
			Upstream corporate limits	*1,289
Maps available for inspection at the Office of the Village Clerk, 15 South Main Street, Cohocton, New York.				
Send comments to Honorable Roy Hynes, Mayor of the Village of Cohocton, 15 South Main Street, Cohocton, New York 14826.				
New York	Cove Neck, village, Nassau County	Oyster Bay Cove	Oyster Bay Cove shoreline	*12
		Oyster Bay Harbor	Oyster Bay Harbor shoreline north of Oyster Bay Cove shoreline to approximately 2,000 feet south of Cove Point.	*12
			Oyster Bay Harbor shoreline from approximately 2,000 feet south of Cove Point to Cove Point.	*15
		Cold Spring Harbor	Cold Spring Harbor shoreline from Cove Point to Cooper Bluff.	*16
			Cold Spring Harbor shoreline from Cooper Bluff to Village of Cove Neck—Village of Laurel Hollow corporate limits.	*15
Maps available for inspection at the residence of the Village Clerk, Mrs. W. D. Robinson, Tennis Court Road, Cove Neck, New York.				
Send comments to Honorable Stephen Ulman, Mayor of Cove Neck, Box 279, Cove Neck Road, Cove Neck, New York 11709.				
New York	Galen, town, Wayne County	New York State Barge Canal—Clyde River.	Bentley Road extended	*388
			High Street extended	*394
			Stell Road extended	*395
Maps available for inspection at the Office of the Town Clerk, Municipal Building, South Park Street, Clyde, New York.				
Send comments to Honorable Leo J. Jenkins, Supervisor of Galen, Municipal Building, South Park Street, Clyde, New York 14433.				
New York	Greenport, village, Suffolk County	Greenport Harbor	From the northeastern corporate limits at the mouth of Stirling Basin to Fanning Point.	*11
			From Fanning Point to the southern corporate limits at Pipes Cove.	*8
Maps available for inspection at the Village Hall, 236 Third Street, Greenport, New York.				
Send comments to Honorable George Hubbard, Mayor of Greenport, 236 Third Street, Greenport, New York 11944.				
New York	Nissequogue, village, Suffolk County	Smithtown Bay	Entire shoreline within community	*16
		Stony Brook Harbor	Entire shoreline within community	*14
		Nissequogue River	Shoreline from northwest corporate limits to approximately 0.8 mile southeast of northwest corporate limit.	*14
			Shoreline from approximately 0.6 mile southeast of northwest corporate limits to approximately 0.7 mile north of southwest corporate limits.	*11
			Shoreline from approximately 0.7 mile north of southwest corporate limits to southwest corporate limits.	*12
Maps available for inspection at the Village Hall, Moriches Road, St. James, New York.				
Send comments to Honorable James J. McDonagh, Mayor of Nissequogue, 83 Woodhill Path, St. James, New York 11780.				
New York	Town of North Hempstead, Nassau County	Hempstead Harbor	From the southern corporate limit of Sand Point, New York to the northern corporate limit of Flower Hill, New York.	*16
Maps are available for inspection at the Building Department, North Hempstead Town Hall, 220 Plandome Road, Manhasset, New York.				
Send comments to: Mr. John B. Kiernan, Supervisor, Town of North Hempstead, Town Hall, 220 Plandome Road, Manhasset, New York 11030.				

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Porter, town, Niagara County	Lake Ontario	Entire shoreline	*249
		Beaver Creek	Confluence with Twelvemile Creek	*306
			Upstream Ransomville Road	*314
			Upstream New Road	*318
			Upstream State Route 93	*324
		Tributary B-1	Confluence with Beaver Creek	*318
			Upstream Conrail Culvert	*320
		Twelvemile Creek	Downstream corporate limits	*296
			Upstream Race Track Road	*307
			Upstream State Route 93	*314
		Tributary T-3	Confluence with Twelvemile Creek	*314
			Upstream Dickersonville Road (downstream crossing)	*316
			Upstream Dickersonville Road (upstream crossing)	*320
			Upstream corporate limits	*324
		Tributary T-3A	Confluence with Tributrary T-3	*319
			Upstream Conrail Culvert	*323
			Upstream corporate limits	*328

Maps available for inspection at the Town Hall, 120 Lockport Street, Youngstown, New York.

Send comments to Honorable Ronald C. Johnston, Supervisor of Porter, 120 Lockport Street, Youngstown, New York 14174.

New York	Prattsville, town, Greene County	Schoharie Creek	Approximately 3,500' downstream of State Route 23	*1,143
			State Route 23 (upstream)	*1,154
			Confluence of Batavia Kill	*1,180
			At upstream corporate limits	*1,226
		Batavia Kill	Confluence with Schoharie Creek	*1,180
			Approximately 4,700' upstream of State Route A23	*1,220
			Approximately 4,420' downstream of corporate limits	*1,250
			Upstream corporate limits	*1,314

Maps available for inspection at the Office of the Town Clerk, Town Hall, Main Street, Prattsville, New York.

Send comments to Honorable Phyllis Raeder, Supervisor of Prattsville, P.O. Box 418, Prattsville, New York 12468.

New York	Southold, town, Suffolk County	Fisher Island Sound	Entire northern shoreline of Fisher Island	*14
		Block Island Sound	Entire southern shoreline of Fisher Island	*14
		Long Island Sound	Entire shoreline of Flat Hammock Island	*14
			Entire shoreline of North Dumpling Island	*14
			Entire shoreline of South Dumpling Island	*14
			Shoreline from Orient Point to 650 feet west of Three Waters Lane.	*13
			Shoreline from 650 feet west of Three Waters Lane to the western corporate limits of Southold.	*14

Maps available for inspection at the Town Hall, Main Road, Southold, New York.

Send comments to Honorable William R. Pell, III, Supervisor of Southold, Town Hall, Main Road, Southold, New York 11971.

Ohio	(V), Carlisle Montgomery and Warren Counties	Great Miami River	About 0.14 mile downstream of Chicago & North Western Railroad.	*677
			About 1.65 miles upstream of Park Avenue	*685
		Shallow Flooding (overflow from Subdivision Tributary).	About 2.6 miles north of Intersection of Janet Avenue and Chestnut Avenue.	*690
			Intersection of Janet Avenue and Oak Drive	*691
		Dry Run	About 0.2 mile downstream of Lake Avenue	*671
			Just upstream of Chessie System	*693
			About 0.57 mile upstream of Chamberlain Road	*705
		Carlisle Drain	About 0.47 mile downstream of Jill Avenue	*668
			About 0.49 mile upstream of Sheri Lane	*671
		Subdivision Tributary	Just upstream of Chamberlain Road	*681
			Just upstream of Montgomery Avenue	*689
			About 0.06 mile upstream of Montgomery Avenue	*690
		Twin Creek	0.83 mile downstream of Chamberlain Road	*679
			0.23 mile downstream of Chamberlain Road	*687

Maps available for inspection at the Town Hall, 760 Central Avenue, Carlisle, Ohio.

Send comments to Honorable Kelly Borad, Mayor, Village of Carlisle, P.O. Box 428, Carlisle, Ohio 45005.

Ohio	(V), Marblehead, Ottawa County	Lake Erie	Within corporate limits	*578

Maps available for inspection at the Mayor's Office, 513 West Main Street, Marblehead, Ohio.

Send comments to Honorable John Dziak, Mayor, Village of Marblehead, 513 West Main Street, Marblehead, Ohio 43440.

Ohio	(C), Perrysburg, Wood County	Grassy Creek	Just upstream of Indiana Road	*620
			Just downstream of Findlay Street	*633

Maps available for inspection at the Mayor's Office, City Hall, 281 West Indiana Avenue, Perrysburg, Ohio.

Send comments to Honorable Sam Hunter, Mayor, City of Perrysburg, City Hall, 281 West Indiana Avenue, Perrysburg, Ohio 43551.

Ohio	(C), Rossford, Wood County	Maumee River	At eastern county boundary	*578
			About 1,700 feet upstream of confluence of Grassy Creek.	*579
		Grassy Creek	At mouth of Maumee River	*579
			Just upstream of Chessie System	*584
			About 1,600 feet upstream of Toledo Terminal Railroad.	*606

Maps available for inspection at the Administrator's Office, City Hall, 133 Osborne Street, Rossford, Ohio.

Send comments to Honorable Luis Bauer, Mayor, City of Rossford, City Hall, 133 Osborne Street, Rossford, Ohio 43460.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	(V), South Point, Lawrence County	Ohio River	At downstream corporate limits	*549
			At upstream corporate limits	*551
Maps available for inspection at the Village Administrator's Office, Village Hall, Perry Street, South Point, Ohio.				
Send comments to Honorable William Gaskin, Mayor, Village of South Point, Village Hall, Perry Street, South Point, Ohio 45680.				
Tennessee	Unincorporated areas of Knox County	Beaver Creek	Approximately 690 feet upstream of Solway Road	*867
			Just upstream of U.S. Highway 25W	*986
			Just upstream of Crippen Road	*1,031
			Just downstream of State Highway 131	*1,076
		Bullrun Creek	Just upstream of Campground Road	*818
			Just upstream of Heiskell Road	*831
			Just upstream of Conner Road	*845
			Approximately 800 feet downstream of Loyston Road	*918
		French Broad River	Just upstream of John Sevier Highway	*830
		Grassy Creek	Approximately 200 feet downstream of Oak Ridge Highway.	*982
		Hickory Creek	Approximately 480 feet upstream of Buttermilk Road	*803
			Just downstream of Yarnell Drive	*852
			Just downstream of Campbell Station Road	*924
		Holston River	Just upstream of Interstate Highway 40	*831
			Just upstream of (Mascot Road) McBee Bridge	*853
		Knob Fork	Approximately 130 feet upstream of Interstate Highway 75.	*997
			Approximately 200 feet upstream of Kern Road	*1,023
			Just upstream of Jim Sterchi Road	*1,037
		Love Creek	Just upstream of Parker Road	*861
			Approximately 100 feet upstream of Millertown Pike	*950
		Mill Branch	Just downstream of State Highway 33	*1,025
			Just upstream of State Highway 33	*1,030
			Just downstream of Gray Road	*1,101
		Murphy Creek	Just upstream of Southern Railway	*984
			Approximately 100 feet downstream of Murphy Road	*996
		North Fork Beaver Creek	Approximately 90 feet upstream of Hill Road	*1,029
			Just downstream of Ledgerwood Road	*1,045
		Plumb Creek	Just upstream of Hardin Valley Drive	*946
		Roseberry Creek	Just upstream of U.S. Highway 11 West	*947
			Just upstream of Roberts Road	*995
			Just upstream of Washington Pike	*1,016
		Sinking Creek	Just downstream of Fox Lonas Road	*914
			Approximately 80 feet downstream of Middlebrook Pike.	*990
		Stock Creek	Just downstream of Martin Mill Pike	*830
			Just downstream of Neubert Springs Road	*841
		Swanpond Creek	Just upstream of Strawberry Plains Pike	*834
			Approximately 100 feet upstream of Wayland Road	*886
			Approximately 110 feet downstream of Huckleberry Springs Road.	*933
		Ten Mile Creek	Just upstream of Kingston Pike	*888
			Just upstream of Bridgewater Road	*897
			Approximately 350 feet upstream of Robinson Road	*943
		Tennessee River	Approximately 3,000 feet upstream of U.S. Highway 129.	*820
		Tributary No. 1 to Ten Mile Creek	Approximately 1,300 feet upstream of the confluence with Ten Mile Creek.	*902
		Tributary to Turkey Creek	Just downstream of Gilbert Drive	*910
		Turkey Creek	Just upstream of Kingston Pike	*874
			Approximately 110 feet upstream of Lovell Road	*913
		Whites Creek	Just upstream of Beverly Road	*968
			Just upstream of McCampbell Road	*973
		Willow Fork	Approximately 920 feet upstream of Quarry Road	*1,039
Maps available for inspection at County Executive's Office, City-County Building, 400 Main Street, Knoxville, Tennessee 37902.				
Send comments to Mr. Dwight Kessel, Knox County Executive, or Ms. Missy Dickey, Department of Codes Administration, City-County Building, 400 Main Street, Knoxville, Tennessee 37902.				
Tennessee	City of Knoxville, Knox County	East Fork Third Creek	Just upstream of Interstates 40 and 75	*854
			Just upstream of Keith Avenue	*883
		First Creek	Just upstream of Vine Avenue	*868
			Just upstream of Interstate 40	*891
			Just upstream of Oglewood Avenue	*938
			Just upstream of Woodrow Drive	*960
		Fourth Creek	Just upstream of Westland Drive (Lyons View Pike)	*841
			Just upstream of Southern Railway	*860
			Just upstream of Interstates 40 and 75	*875
		Goose Creek	Just upstream of Southern Railway	*825
		Holston River	Just upstream of Boyd Bridge Pike	*827
		Love Creek	Just downstream of Asheville Highway (U.S. 11 and 25).	*840
		Second Creek	Just upstream of Interstate 40	*880
			Just upstream of Baxter Avenue	*890
			Just upstream of Tillery Drive	*987
			Just upstream of Inskip Road	*1,004
		Ten Mile Creek	Just upstream of Middlebrook Pike	*930
		Tennessee River	Just downstream of Southern Railway	*821

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Third Creek	Just upstream of Kinston Pike	*831
			Just upstream of Southern Railway	*857
			Just upstream of Louisville and Nashville Railroad	*930
		Tributary to Goose Creek	Just upstream of Old Maryville Pike	*930
		Tributary No. 1 to Fourth Creek	Just upstream of Westland Drive	*840
		Tributary No. 2 to Fourth Creek	Just upstream of Kinston Pike	*905
			Just upstream of Wellington Drive	*942
		Unnamed Tributary to Ten Mile Creek.	Just upstream of Walker Spring Road	*912
		Whites Creek	Just upstream of Nora Road	*958
			Just upstream of Greenway Drive	*966
Maps available for inspection at the Mayor's Office, City-County Building, 400 Main Street, Knoxville, Tennessee 37902.				
Send comments to Mayor Randy Tyree or Mr. Roger Campbell, Assistant to the Chief Operating Officer, City-County Building, 400 Main Street, Knoxville, Tennessee 37902.				
Tennessee	City of Springfield, Robertson County	Sulphur Fork	Just upstream of Main Street	*547
			Just downstream of 5th Avenue East	*558
Maps available for inspection at the City Hall, 123 Fifth Avenue West, Springfield, Tennessee 37172.				
Send comments to Mayor Dave Fisher or Mr. Art Garrett, City Planner, City Hall, 123 Fifth Avenue West, Springfield, Tennessee 37172.				
Texas	Town of Crystal Beach, Galveston County	Gulf of Mexico	Womack Drive extended to Shoreline	*21
			Intersection of State Highway 87 and Stingare Street	*13
			Intersection of State Highway 87 and Bay View Drive	*12
Maps available for inspection at Town Hall, Highway 87 and North Monkhouse Drive, Crystal Beach, Texas 77650.				
Send comments to Mayor Henry Marsh, or Mr. Jerry Mathis, Mayor Pro-Tem, Town Hall, P.O. Box 1346, Crystal Beach, Texas 77650.				
Texas	Galena Park, city, Harris County	Hunting Bayou	Downstream corporate limits to Port Terminal Railroad	*12
			Upstream corporate limits	*15
		Panther Creek	Downstream corporate limits to upstream side of Holland Street.	*12
Maps available for inspection at the City Hall, Galena Park, Texas.				
Send comments to Honorable Alvin Baggett, Mayor of Galena Park, P.O. Box 46, Galena Park, Texas.				
Texas	City of Galveston, Galveston County	Galveston Bay	At intersection of Avenue P and 47th Street	*11
		West Bay	At intersection of Shader Road and 103rd Street	*13
			At intersection of Musket Lane and Cathegena Way	*14
		Gulf of Mexico	At intersection of 81st Street and Stewart Boulevard	*11
			Approximately 50 feet north of intersection of Stewart Boulevard and 87th Street.	*12
			At intersection of Duncan Way and Vista Boulevard	*15
			Approximately 100 feet south of intersection of Seawall Boulevard and 87th Street.	*19
Maps available for inspection at City Hall, Building Inspection Department, 823 Rosenberg Street, Galveston, Texas 77553.				
Send comments to Mayor Gus Manuel or Mr. Paul Grabiel, Building Official, City Hall, P.O. Box 779, Galveston, Texas 77553.				
Texas	Unincorporated Areas of Galveston County	Benson Bayou	Approximately 100 feet upstream of the Village of Dickinson Corporate Limits.	*15
		Dickinson Bayou	Just upstream of State Highway 3 (flooding of this location is affected by both Dickinson Bayou and Galveston Bay).	*11
			Just upstream of State Highway 646 (flooding at this location is affected by both Dickinson Bayou and Galveston Bay).	*13
			Just upstream of Cemetery Road (flooding at this location is affected by both Dickinson Bayou and Galveston Bay).	*15
			Just upstream of FM 517	*27
		Magnolia Bayou	Just upstream of the Village of Dickinson Corporate Limits.	*16
		Tributary to Gum Bayou	Just upstream of California Avenue	*15
			Just downstream of FM 1266	*18
		Gum Bayou	Just upstream of Walk Bridge (flooding at this location is affected by backwater from Dickinson Bayou).	*11
		Unnamed Tributary to Dickinson Bayou (West Branch).	Just upstream of Second Street	*18
			Just downstream of Fourth Street	*23
		Unnamed Tributary to Dickinson Bayou (East Brach).	Just upstream of Second Street	*18
			Just downstream of Fourth Street	*22
		Gulf of Mexico	Intersection of 10th Street and Nelson Avenue	*11
			Intersection of 15th Street and State Highway 87	*13
			Intersection of 20th and Front Street	*14
			Approximately 0.6 mile southwest along State Highway 87 from the Post Office at Gilchrist.	*14
			Intersection of Strand Avenue and Boyt Road	*17
Maps available for inspection at County Engineer's Office, Galveston County Courthouse, 722 Moody Street, Galveston, Texas 77550.				
Send comments to Judge Ray Holbrook or Mr. Mike Fitzgerald, County Engineer, Galveston County Courthouse, 722 Moody Street, Galveston, Texas 77550.				
Texas	Unincorporated areas of Jefferson County	Mayhaw Bayou	Just upstream of State Highway 124	*15
		Walker Branch Tributary	Just upstream of Tram Road	*22
		Hillebrandt Bayou	At Hillebrandt Road	*9
			At the corporate limits of the City of Beaumont	*10
		Willow Marsh Bayou	Just upstream of Walden Road	*19
		Pine Island Bayou	At the confluence of Hughes Gully	*23
		Rhodair Gully	Just upstream of Port Arthur Road	*10

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Taylor Bayou	Just downstream of La Belle Road	*11
		Bayou Din	Just upstream of Interstate Highway 10	*26
			Just upstream of the First Dirt Road located approximately 4,000 feet upstream of Mack Road.	*27
		Bayou Din Tributary	Approximately 300 feet upstream of Timber Bridge	*18
		Kid Gully	Just upstream of State Highway 124	*19
		Cotton Creek	Approximately 1000 feet upstream of 3rd Street	*42
		Crane Bayou (Ponding)	At the intersection of Taft Avenue and State Highway 73.	*3
		Gulf of Mexico	Intersection of West Basin Intracoastal Waterway and Sabine Neches Canal.	*10
			The intersection of Big Hill Road and a Private Drive 1.2 miles North of Big Hill.	*11
			South of the intersection of Taylor and Hillebrandt Bayous.	*12
			Just north of the intersection of the Intercoastal Waterway with Salt Bayou.	*15
			South of the Clam Lake Shoreline	*17
			Along State Highway 87 near the Jefferson Chambers County Line.	*18
		Guld of Mexico/Neches River	Approximately 200 feet upstream of State Highway 73, at a point where State Highway 81 joins Highway 73 before crossing the river..	*8
			At McFadden Bend Cutoff and Smith Bluff Cutoff	*8
			At the Horseshoe Bend located at 3,500 feet downstream of Interstate Highway 10 and U.S. Highway 90.	*10
		Gulf of Mexico/Hillebrandt Bayou	North of Good Hope Chapell, along the right bank	*9
		Gulf of Mexico/Rhodair Gully	Just upstream of State Highway 365	*9
		Gulf of Mexico/Taylor Bayou	Just south of the confluence of Hillebrandt Bayou, along the Right Bank..	*12

Maps available for inspection at County Clerk's Office, Jefferson County Courthouse, 1149 Pearl Street, Beaumont, Texas 77704.

Send comments to Judge R. P. LeBlanc or Mr. Robert Stroder, County Engineer, Jefferson County Courthouse, P.O. Box 4025, Beaumont, Texas 77704.

Texas	Unincorporated areas of Jim Wells County	San Fernando Creek	Just upstream of the Texas Mexican Railroad	*175
			Just upstream of Main Street (State Highways 359 and 44).	*181
		San Fernando Creek Tributary	Upstream of Sain Drive	*182
		Chiltipin Creek	Just upstream of Commerce Road	*189
			Just downstream of Lake Alice Dam	*190
			Just downstream of U.S. Highway 281	*202
		Resaca De Enmedio	Just downstream of U.S. Highway 281	*202
			Just upstream of U.S. Highway 281	*206
		Resaca De Enmedio Tributary 1	Just downstream of U.S. Highway 281	*199
			Just upstream of U.S. Highway 281	*201
		Resaca De Enmedio Tributary 2	Just downstream of an unnamed road	*212
		San Diego Creek	Just upstream of the Southern Pacific Railroad	*213
			Just upstream of U.S. Highway 281	*215
		Lattas Creek	Just upstream of State Highway 605	*176
			Just downstream of Alice City corporate limits	*191
		Lattas Creek Tributary	Just upstream of South Reynolds Street	*202
		Unnamed Creek	Just upstream of U.S. Highway 281	*175
			Just upstream of an unnamed road	*192
		Quintas Creek	Just upstream of State Highway 359	*166
			Just upstream of State Highway 783	*174

Maps available for inspection at County Clerk's Office, Jim Wells County Courthouse, 200 North Almond Street, Alice, Texas 78332.

Send comments to Judge T. L. Harville or Mr. Arnold Saenz, Assistant County Auditor, Jim Wells County Courthouse, 200 North Almond Street, Alice, Texas 78332.

Texas	City of League City, Galveston County	Clear Creek	Just upstream of Interstate Highway 45	*12
		Benson Bayou	Just downstream of State Highway 3	*18
			Just upstream of 16th Street (State Highway 3002)	*16
		Magnolia Creek	At the intersection of Butter Cup and Meadow Briar	*26
		Unnamed Tributary	Approximately 500 feet downstream of Kingsway extended.	*23
		Dickinson Bayou	Approximately 700 feet upstream of Algoa Friendswood Road.	*30
		Galveston Bay/Clear Creek	At FM 270 Bridge over Clear Creek	*11
		Galveston Bay/Robinson Bayou	At State Route 518 Bridge over Robinson Bayou	*11
		Galveston Bay/Clear Lake	At the intersection of Mission Drive and Glen Cove Drive.	*11
			At the intersection of Ferncroft Drive and Glen Cove Drive.	*13

Maps available for inspection at City Hall, Engineering Department, 300 West Walker Street, League City, Texas 77573.

Send comments to Mayor Joe Lamb, or Mr. Paul Nutting, Executive Assistant to the Mayor, City Hall, 300 West Walker Street, League City, Texas 77573.

Texas	City of Memphis, Hall County	Berkley Creek	Approximately 100 feet downstream of Maple Street (extended).	*2,033
			Approximately 240 feet upstream of Menden Street	*2,044
		Parker Creek	Approximately 400 feet downstream of County Road 2166 (extended).	*2,020
		Tributary 1	Just upstream of Eastern Corporate Limits (downstream crossing).	*2,054
		Tributary 2	Approximately 80 feet upstream of Forthworth and Denver Railroad.	*2,017
		Tributary 3	Just downstream of Harrison Street	*2,044

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tributary 4	Just downstream of Robertson Street	*2,055
			Just downstream of Menden Street	*2,017
			Just upstream of Menden Street	*2,028
			Approximately 80 feet upstream of State Highway 266 (Noel Street).	*2,060

Maps available for inspection at City Secretary's Office, City Hall, 721 Robertson Street, Memphis, Texas 79245.

Send comments to Mayor Homer Tucker or Mr. Michael Brannigan, Director of Public Works, City Hall, 721 Robertson Street, Memphis, Texas 79245.

Texas	City of Texas City, Galveston County	Gulf of Mexico/Dickinson Bayou	Intersection of San Leon Drive and Wig Street	*11
			Intersection of David Street and Hillman Drive	*11
		Dickinson Bayou	Just upstream of Hughes Road	*12

Maps available for inspection at City Hall, Planning Department, 1800 Palmer Highway, Texas City, Texas 77590.

Send comments to Mayor Emmett Lowry or Mr. Wallace Knox, Mayor's Assistant, City Hall, P.O. Box 2606, Texas City, Texas 77590.

Vermont	East Montpelier, town Washington County	Winooski River	Downstream corporate limits	*571
			Upstream Green Mountain Power #4 Dam	*619
			Upstream Green Mountain Power #5 Dam	*650
			Upstream U.S. Route 2	*663
			Upstream U.S. Route 2 (second crossing)	*675
			Upstream corporate limits	*681

Maps available for inspection at the Town Clerk's Office, Town Hall, R.F.D., East Montpelier, Vermont.

Send comments to Honorable Austin Cleevas, Chairman of the East Montpelier Board of Selectmen, Town Hall, R.F.D., East Montpelier, Vermont 05651.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: July 28, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-22011 Filed 8-16-82; 8:45 am]

BILLING CODE 6718-03-M

Notices

Federal Register
Vol. 47, No. 159
Tuesday, August 17, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Piedra Wilderness Study Area, West Needle Wilderness Study Area, and South San Juan Wilderness Expansion Study Area; Hearing

Notice is hereby given that public hearings will be held on the proposed future management of the following Wilderness Study Areas located within the State of Colorado:

Piedra Wilderness Study Area comprised of approximately 41,500 acres located within the San Juan National Forest in Archuleta and Hinsdale Counties;

West Needle Wilderness Study Area comprised of approximately 21,580 acres located in San Juan and La Plata Counties of which 15,800 acres are within the San Juan National Forest and administered by the U.S. Forest Service and 5,780 acres are within the San Juan Resource Area and administered by the Bureau of Land Management; and

South San Juan Wilderness Expansion Study Area comprised of approximately 32,800 acres located within the San Juan National Forest in Archuleta, Rio Grande, Mineral and Conejos Counties.

The hearings will be held as follows:

Tuesday, September 14, 1982, 1:00–5:00 p.m. and 7:00–10:00 p.m. Iron Horse Resort and Conference Center, 25926 U.S. Highway 550 North in Durango, Colorado.

Thursday, September 16, 1982, 1:00–5:00 p.m. and 7:00–10:00 p.m. Class Room C at the Botanical Gardens, 1005 York Street, Denver, Colorado.

Study reports, containing maps and information on the proposals for the Wilderness Study Areas may be obtained from the Forest Supervisor, San Juan National Forest, 701 Camino del Rio, Room 200, Durango, Colorado 81301.

Individuals and organizations may express their views by appearing at either of these hearings or may submit written comments for inclusion in the official record, to the Forest Supervisor at the above address. To be included in the official record, written comments must be received by October 15, 1982.

Dated: August 11, 1982.

F. Dale Robertson,
Associate Chief.

[FR Doc. 82-22308 Filed 8-16-82; 8:45 am]
BILLING CODE 3410-11-M

Soil Conservation Service

Monongalia County Schools Land Drainage and Critical Area Treatment R.C. & D. Measure Plan, West Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines, (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Monongalia County Schools Land Drainage and Critical Area Treatment R.C. & D. Measure, Monongalia County, West Virginia.

FOR FURTHER INFORMATION CONTACT: Rollin N. Swank, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304–291–4151.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Rollin N. Swank, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed of this project.

The measure concerns land drainage and critical area treatment. The planned works of improvement will be installed on six school sites scattered around Monongalia County. Conservation practices include diversions, vegetative waterways, subsurface draines, drop structures, rock riprap, and seeding.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Rollin N. Swank, State Conservationist.

No administrative action on implementation of the proposal will be taken until September 16, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Rollin N. Swank,
State Conservationist,
August 6, 1982.

[FR Doc. 82-22364 Filed 8-16-82; 8:45 am]
BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket No. 40662]

Aero West Airlines Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated at Washington, D.C., August 9, 1982.

Elias C. Rodriguez,
Chief Administrative Law Judge.

[FR Doc. 82-22351 Filed 8-16-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket No. 40639]

Aeroamerica Fitness Investigation; Postponement of Hearing

Notice is hereby given that the hearing in the above-titled matter now assigned to be held on August 17, 1982 (47 FR 34438, August 9, 1982), is hereby postponed to August 24, 1982 at 10:00 a.m. (local time) in Room 1012, Universal

Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., August 12, 1982.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 82-22359 Filed 8-16-82; 8:45 am]

BILLING CODE 6320-01-M

[82-8-51]

Application of Air Polynesia, Inc. t/a DHL Cargo for Certificate Authority; Order to Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (82-8-51).

SUMMARY: The Board is proposing to award a certificate of public convenience and necessity to DHL Cargo authorizing it to engage in the interstate transportation of property and mail between points in Hawaii. The Board has tentatively decided that DHL Cargo is fit, willing and able to provide the service.

DATES: Objections: All interested persons having objections to the Board's issuing the proposed certificate or to its tentative finding of fitness shall file, and serve upon all persons listed below no later than September 3, 1982, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections should be filed in Docket 40674, and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on DHL Cargo; Island Airlines Hawaii, Inc.; the Mayor and airport manager of each city to which the pleading refers; the governor of the State of Hawaii and the Hawaii Department of Transportation.

FOR FURTHER INFORMATION CONTACT: Carol Szekely, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5328.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-8-51 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-8-51 to that address.

By the Civil Aeronautics Board: August 11, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-22358 Filed 8-16-82; 8:45 am]

BILLING CODE 6320-01-M

Announcement of Proposed Collection of Information Under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35)

Agency Clearance Officer From Whom a Copy of the Collection of Information and Supporting Documents is Available: Robin A. Caldwell, (202) 673-5922.

New

Title of the Collection of Information: Part 382, "Nondiscrimination on the Basis of Handicap"
Agency Form Number: None
How often the Collection of Information must be filed: On occasion
Who is asked or required to report: All carriers who receive Federal subsidy
Estimate of number of annual responses: 62
Estimate of number of annual hours needed to complete the collection of information: 143

New

Title of the Collection of Information: Part 320, "Procedure for Awarding Japanese Charter Authorizations"
Agency Form Number: None
How often the Collection of Information must be filed: On occasion; monthly; annually
Who is asked or required to report: U.S. Certificated Air Carriers
Estimate of number of annual responses: 435
Estimate of number of annual hours needed to complete the collection of information: 261

Extension

Title of the Collection of Information: Section 19-3 of Part 241 of the Economic Regulations—Accessibility and Transmittal of Service Segment Data
Agency Form Number: None
How often the Collection of Information must be filed: Monthly
Who is asked or required to report: U.S. Certificated Air Carriers
Estimate of number of annual responses: 420
Estimate of number of annual hours needed to complete the collection of information: 21,200

M. Clay Moritz, Jr.,

Acting Chief, Information Management Division.

August 11, 1982.

[FR Doc. 82-22361 Filed 8-16-82; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Filed Under Subpart Q of the Board's Procedural Regulations (see, 14 CFR 302.1701 et seq.) week ended August 6, 1982.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Aug. 2, 1982	40892	Northeastern International Airways, Inc., c/o James Lawrence Smith, 1600 S.E. 10th Terrace, Ft. Lauderdale, Florida 33316. Application of Northeastern International Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests authorization to provide scheduled air transportation of persons, property and mail "Between the coterminal point Albany, New York and Coterminal points of Montreal and Toronto, Canada. Conforming Applications, motions to modify scope, and Answers may be filed by August 30, 1982.
Aug. 4, 1982	40898	Ryan Air Service, Inc., P.O. Box 127, Unalakleet, Alaska 99684. Application of Ryan Air Service, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property and mail within the State of Alaska between the terminal point Unalakleet, the intermediate points: St. Michael, Stebbins, Shaktoolik, and Koyuk and between the terminal point Nome and the intermediate points: White Mountain, Golovin, Elim, Teller, Brevig Mission, Wales, Shishmaref, Tin City, Gambell and Savoonga. Conforming Applications, motions to modify scope, and Answers may be filed by September 1, 1982.

Date filed	Docket No.	Description
Do	40899	Jet USA Airlines, Inc., c/o Edwin O. Bailey, Kirkland & Ellis, 1776 K Street, N.W., Washington, D.C. 20006. Application of Jet USA Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests permanent authority to engage in interstate and overseas air transportation of passengers, property and mail: Between any point in any State of the United States or the District of Columbia or any territory or possession of the United States, and any other point in any State of the United States or the District of Columbia or any territory or possession of the United States. Conforming Applications, motions to modify scope, and Answers may be filed by September 1, 1982.
Do	40900	Jet USA Airlines, Inc., c/o Edwin O. Bailey, Kirkland & Ellis, 1776 K Street, N.W., Washington, D.C. 20006. Application of Jet USA Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to provide charter foreign air transportation of persons, property, and mail as follows: Between any point in any State of the United States, or the District of Columbia, or any United States territory or possession and (a) points in Canada; (b) points in Mexico; (c) points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea; and (d) points in Central America, Colombia, Peru, Bolivia, Ecuador and Venezuela. Conforming Applications, motions to modify scope, and Answers may be filed by September 1, 1982.
Aug. 6, 1982	40909	Northeastern International Airways, Inc., c/o James Lawrence Smith, 1600 S.E. 10th Terrace, P.O. Box 21747, Ft. Lauderdale, Florida 33335-1747. Application of Northeastern International Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests authorization to provide scheduled air transportation of persons, property and mail: "Between the terminal point, Tampa, Florida; and the terminal point, London, England" Conforming Applications, motions to modify scope, and Answers may be filed by September 3, 1982.
Do	40910	Northeastern International Airways, Inc., c/o James Lawrence Smith, 1600 S.E. 10th Terrace, P.O. Box 21747, Ft. Lauderdale, Florida 33335-1747. Applications of Northeastern International Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests authorization to provide scheduled air transportation of persons, property and mail "Between the coterminal points Ft. Lauderdale, Florida; Baltimore/Washington; Islip, N.Y.; Hartford, Connecticut and San Juan, Puerto Rico and Coterminal points within the countries of Antigua, Aruba, the Bahamas, Barbados, Curacao, Dominican Republic, Guadaloupe, Grenada, Haiti, Jamaica, Martinique, St. Kitts, St. Maarten, Trinidad and Tobago, Belize, Chile, El Salvador, Guatemala, Guyana, Honduras, Nicaragua, Panama, Belgium, Federal Republic of Germany, Ireland, Luxembourg, the Netherlands and Switzerland." Conforming Applications, motions to modify scope, and Answers may be filed by September 3, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-22355 Filed 8-16-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 40747]

Emerald Air, Inc. d.b.a. Emerald Airlines; Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-titled matter now assigned to be held on August 19, 1982 (47 FR 34608, August 10, 1982), is hereby postponed to August 26, 1982, at 10:00 a.m. (local time) in Room 1012, Universal Building, 1825 Connecticut Avenue, NW, Washington, D.C.

Dated at Washington, D.C., August 12, 1982.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 82-22362 Filed 8-16-82; 8:45 am]

BILLING CODE 6320-01-M

[82-8-53]

Fitness Determination of F. & F. Aircraft Leasing, Inc., d.b.a. Finair Express; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 82-8-53, order to show cause.

SUMMARY: The Board is proposing to find that F&F Aircraft Leasing, Inc. d/b/a Finair Express is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service will conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses—All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than August 27, 1982, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A of Order 82-8-53.

FOR FURTHER INFORMATION CONTACT: Ms. Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673-5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-8-53 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-8-53 to that address.

By the Civil Aeronautics Board; August 11, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-22357 Filed 8-16-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 40887]

U.S.-People's Republic of China Service Proceeding (Phase II); Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on August 17, 1982, at 9:30 a.m. (local time), Room 1027, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., August 6, 1982.

Elias C. Rodriquez,

Chief Administrative Law Judge.

[FR Doc. 82-22360 Filed 8-16-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

The Regents of the Unviersity of California; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 82–00140. Applicant: The Regents of the University of California, Material Management Department, Riverside, California 92521. Article: High Throughput "Jet" Spore Sampler. Manufacturer: Burkard Manufacturing Co., Ltd., United Kingdom. Intended use of article: See Notice on page 20837 in the Federal Register of May 14, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides final collection of spores (in the 3–7 micrometer range) by gravity setting in still air. The Department of Health and Human Services advises in its memorandum dated June 10, 1982 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Program Manager, Florence Agreement Program, Statutory Import Programs Staff.

[FR Doc. 82–22309 Filed 8–16–82; 8:45 am]

BILLING CODE 3510–25–M

The Regents of the University of California, Riverside; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 82–00131. Applicant: The Regents of the University of California, Riverside, Material Management Department, Riverside, CA 92521. Article: Airborne Sonar Spatial Sensor. Manufacturer: Department of Electrical Engineering, University of Cantebury, New Zealand. Intended use of article: See Notice on page 15820 in the Federal Register of April 13, 1982.

Coments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides lightweight and a "trinaural" sensing feature. The Department of Health and Human Services advises in its memorandum dated June 10, 1982 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Program Manager, Florence Agreement Program, Statutory Import Programs Staff.

[FR Doc. 82–22310 Filed 8–16–82; 8:45 am]

BILLING CODE 3510–25–M

University of Florida; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 82–00113. Applicant: University of Florida, College of Engineering, Department of Materials Science & Engineering, Gainesville, Florida 32611. Article: Accessories for a JEM 200CX Electron Microscope consisting of: Solid Pair Backscattered Electron Detector, Image Selector Switch, Hard X-ray Shielding System and High Angle Energy Dispersive Spectrometer Interface. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 15819 in the Federal Register of April 13, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to a compatible accessory for an instrument that has been previously imported for the use of the applicant institution. The accessory is being furnished by the manufacturer which produced the instrument with which it is intended to be used. We are advised by the Department of Health and Human Services in its memorandum dated June 10, 1982 that the accessory is pertinent to the applicant's intended uses and that it knows of no comparable domestic article.

The Department of Commerce knows

of no similar accessory manufactured in the United States which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials).

Stanley P. Kramer,

Program Manager, Florence Agreement Program, Statutory Import Programs Staff.

[FR Doc. 82-22311 Filed 8-16-82; 8:45 am]

BILLING CODE 3510-25-M

Bicycle Speedometers From Japan; Correction to Notice of Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Correction to Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On July 2, 1982, the Department of Commerce published the final results of the administrative review of the antidumping finding concerning bicycle speedometers from Japan (47 FR 28978–28982).

Due to a clerical error, that notice incorrectly gave 26.44% as the margin and estimated cash deposit rate for several firms. Wherever that rate appears in the notice, the correct rate is 25.89%. Therefore, the highest current rate for responding firms is 25.89%, not 26.44%.

The "Summary" portion of the final notice also indicates that the administrative review covers various time periods through October 31, 1981. The correct date is October 31, 1980.

EFFECTIVE DATE: August 17, 1982.

FOR FURTHER INFORMATION CONTACT: Betsy E. Stillman or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2923).

Gary N. Horlick,

Deputy Assistant Secretary, Import Administration.

August 9, 1982.

[FR Doc. 82-22373 Filed 8-16-82; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determinations; Deformed Steel Bars for Concrete Reinforcement from South Africa

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Affirmative Countervailing Duty Determination.

SUMMARY: We have preliminarily determined that there is reason to believe or suspect that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in South Africa of deformed steel bars for concrete reinforcement, as described in the "Scope of Investigation" section of this notice. We estimate the value of the benefits to be 4.1 percent of the f.o.b. value of the merchandise.

Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond in the amount equal to the estimated bounties or grants.

If this investigation proceeds normally, we will make our final determination by October 15, 1982.

EFFECTIVE DATE: August 17, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black, Office of Investigation, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377–1774.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we have preliminarily determined that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act) are being provided to manufacturers, producers, or exporters in South Africa of deformed steel bars for concrete reinforcement (rebars), as described in the "Scope of Investigation" section of this notice.

Case History

On May 18, 1982, we received a petition from counsel for Industrial Siderurgica, Inc. of Bayamon, Puerto Rico, a manufacturer producing deformed steel bars for concrete reinforcement. Puerto Rico is part of the customs territory of the United States. In compliance with the filing requirements of § 355.26 of the Commerce Regulations, the petition alleged that manufacturers, producers, or exporters in South Africa of rebars receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Act.

We found the petition sufficient, and on June 8, 1982 we initiated a countervailing duty investigation (47 FR 25174).

Since South Africa is not a "country under the Agreement" within the meaning of section 701(b) the Act and the rebars at issue here are dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, Imports of this product cause or threaten material injury to the U.S. industry in question.

Scope of the Investigation

For the purpose of this investigation, the term "deformed steel bars for concrete reinforcement" covers hot-rolled steel bars, of solid cross section, having deformations of various patterns on their surfaces, as currently provided for in items 606.79 and 606.81 of the *Tariff Schedules of the United States.*

The petitioner also filed against plain billet bars, but amended the petition on May 28, 1982 to remove this product from the investigation.

The South African Iron and Steel Industrial Corporation (ISCOR) is the only known producer in South Africa of the rebars exported to the United States.

Analysis of Programs

The period for which subsidization is being measured is the corporate fiscal year ending June 30, 1981.

In its response, the government of South Africa provided data for the applicable periods. Additionally, we received information from ISCOR, which produced and exported rebars to the United States during 1981. Based upon our analysis to date of the response and petition, we have preliminarily determined the following.

Programs Preliminarily Determined To Be Bounties or Grants to Manufacturers, Producers, or Exporters of Rebars

Assumption of Finance Charges

In 1978 the government of South Africa assumed R70 million of ISCOR's finance charges. In the countervailing duty investigations of certain steel products from South Africa, we preliminarily determined that this benefit is a bounty or grant within the meaning of the countervailing duty law. We are continuing to examine that issue in the context of those investigations.

We allocated this grant over 15 years, the estimated life of capital assets in integrated steel mills in the United States (based upon studies of actual experience in integrated mills). This allocation was performed using a discount rate to reflect the time value of these grant funds. We used the national cost of long-term corporate debt as an appropriate discount rate. Using this methodology, and for the purposes of this preliminary determination, we calculate a benefit of 0.4 percent *ad*

valorem for all steel products produced and sold by ISCOR.

In our "Preliminary Affirmative Countervailing Duty Determinations—Certain Steel Products from South Africa" (47 FR 26340), we calculated the benefit of this program as though the grant were given in 1977, using the appropriate discount rate for that year. Since the grant was actually given in 1978, we are now using the appropriate discount rate for 1978, which is lower. This results in a benefit of 0.4 percent instead of 0.5 percent.

Government Equity Participation

The government of South Africa owns over 99 percent of the outstanding shares of ISCOR. The remaining shares are not publicly traded. The petitioner alleged that the purchase of equity by the government represents a bounty or grant. For our "Preliminary Affirmative Countervailing Duty Determinations—Certain Steel Products from South Africa," *supra,* we made the tentative judgment, based on the profit performance presented in ISCOR's financial statements, that the purchase of share capital in ISCOR by the government was inconsistent with commercial considerations and therefore potentially a bounty or grant.

We then measured the value of the bounty or grant, if any, by comparing the government's rate of return in 1981 on its equity investment in ISCOR with the national average rate of return in 1981 on equity investments in South Africa as evidenced by the report of the South African Reserve Bank. We then multiplied this difference by the amount of the government equity infusions since 1974. We found the value of the benefit, allocated over total ISCOR sales, to be 3.7 percent *ad valorem.*

ISCOR has provided additional information to suggest that the government's equity infusions were consistent with commercial considerations, and therefore not a potential bounty or grant. ISCOR's income statements in its annual reports are based on an inflation-based accounting system which charges to production costs the increased replacement costs of fixed assets. This expense item is in addition to normal depreciation. While approved and recommended, this practice is not followed by most South African companies. However, ISCOR has been using it since 1952.

The effect of this practice on ISCOR is to understate its profit performance *vis-a-vis* companies not using the system. When the provisions for increased replacement costs are added back to profits, ISCOR's performance changes dramatically. Instead of two profitable years in the last eight, ISCOR showed profits in six of those years.

We will consider ISCOR's new information in making our final determination.

Programs Preliminarily Determined Not To Be Bounties or Grants to Manufacturers, Producers, or Exporters of Rebars

We preliminarily determined that no bounties or grants are being provided to manufacturers, producers or exporters in South Africa of rebars under the programs listed below:

Railroad Rate Differential

The South African Transport Services ("SATS"), a government-owned corporation, maintains a rate schedule that generally provides railroad rates for shipments destined for export that are lower than domestic rates. The export rates are approximately 50 percent of the domestic rates. In our "Preliminary Affirmative Countervailing Duty Determinations—Certain Steel Products from South Africa," *supra,* we found this program to be a bounty or grant, and we calculated its benefit by dividing the differential per ton by the per ton value of the appropriate product. As stated in the notice, SATS maintains that its export rates are "cost justified," and that the difference between the domestic and export rates reflects the difference in the cost of handling the two types of traffic.

During our verification we found that steel for export is shipped in "full-truck loads" (full cars) and 39-car trains. The mill is charged for a fully loaded car whether or not it is able to fill the car completely. These trains are moved to the harbors as complete units. The only handling required is the changing of locomotives on various parts of the lines. At the ports the harbor administration unloads the train and loads the ships; for this service a separate fee is charged.

On the other hand, domestic shipments are charged rates on a per ton basis. The railroad moves the cars from the mill to a marshalling yard where they are transferred to other trains for hauling to their destination. (Marshalling may occur more than once during any shipment.) At the destination the railroad is responsible for unloading the train.

SATS has demonstrated to our satisfaction that any rate differentials are completely cost justified. It has shown that the ratio of revenues to costs in export shipments of steel is greater than the similar ratio for domestic shipments. In addition, since July 1 SATS has made available to domestic steel shippers the same rates export shipments enjoy if the domestic shipments meet the same loading and point-to-point conditions imposed on export shipments.

Therefore, we preliminarily determine that the rates afforded by SATS to exporters of rebars are not provided on terms more favorable than those for domestic shippers and that they do not constitute a bounty or grant in this case.

Loan Guarantees

The petitioners in the countervailing duty investigations of certain steel products from South Africa alleged that the South African government's ownership of ISCOR allows the company to receive loans at rates lower than if the company were privately held. In our "Preliminary Affirmative Countervailing Duty Determinations—Certain Steel Products from South Africa," *supra,* we estimated the benefit from loan guarantees based on the best information available.

It is our position that the government's ownership of a firm does not implicitly guarantee the loans taken by that firm, and thereby does not confer *per se* a bounty or grant. An explicit loan guarantee from the state, on the other hand, bestows a benefit to the extent that the recipient of the guaranteed loan pays less for the debt than they would have absent the guarantee. In ISCOR's case we found that only certain of the company's loans obtained in foreign countries were explicitly guaranteed. Those loans carried rates generally higher than the rates for long-term corporate bonds in the countries in which they were received, which we selected as our measure of debt incurred solely on the basis of commercial considerations. Therefore, we preliminarily determine that the explicit guarantee of ISCOR's loans by the government did not provide a benefit which is a bounty or grant in this case.

Employee Training Programs

The South African Department of Manpower certifies training programs to the taxing authority which allows businesses to deduct 200 percent of qualified training expenses. The Department of Manpower has demonstrated that all qualified training programs are available to all companies and industries and that they are neither restricted to certain sectors of the economy nor preferential to exporters. Therefore, the training programs are preliminarily determined not to be bounties or grants.

Reduced Ocean Freight Rates

The petition alleged that South African shippers benefited from reduced ocean freight rates. We could find no evidence of such a program. We did find evidence of variable ocean freight rates due to rate negotiation between shippers and carriers; however, this does not constitute a bounty or grant under the Act.

Programs Preliminarily Determined Not To Be Used by Manufacturers, Producers, or Exporters of Rebars

We have preliminarily determined that the following programs are not used by the manufacturers, producers or exporters in South Africa of rebars.

- Export credit insurance,
- Pre- and post-shipment financing,
- Export Incentive Program—Category A, B, and D,
- Beneficiation allowances for base mineral processing,
- Homeland development, and
- Iron/Steel Export Promotion Scheme.

Programs Preliminarily Determined to be No Longer in Existence

We have preliminarily determined that the following programs are no longer in existence.

Export Incentive Program—Category C (Finance Charges Aid Scheme)

The South African government provided for a tax-free rebate to certain firms inceasing the value of their exports of manufactured goods. The rebate was equal to 25 percent of the interest costs for financing exports. ISCOR benefited from this program in 1981. However, as this program was terminated on April 1, 1982, we are not including this benefit in our calculation of the estimated bounties or grants.

Central Government Rebate

The government of South Africa offered a "Central Government Rebate" of up to 25 percent of the railroad charges on products shipped in open railway cars for export. ISCOR benefited from this program in 1981. However, as this program was terminated on April 1, 1982, we are not including this benefit in our calculation of the estimated bounties or grants.

No other programs alleged in the petition were determined to constitute bounties or grants.

Verification

In accordance with section 776(a) of the Act, we verified all the information relied upon in this determination. We used normal verification procedures to verify the government response. This included the inspection of government documents, discussions with government officials and on-site inspection of ISCOR's operations and records.

Suspension of Liquidation

We are directing the U.S. Customs Service to suspend liquidation of all entries of rebars from South Africa which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond in the amount equal to 4.1 percent of the f.o.b. value of the merchandise.

Public Comment

In accordance with § 355.35 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on September 8, 1982, at the U.S. Department of Commerce, Room 3080, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by September 1, 1982. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.43, on or before September 16, 1982 at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-22374 Filed 8-16-82; 8:45 am]

BILLING CODE 3510-25-M

Piher Semiconductores, S.A.; Order Amending Temporary Denial of Export Privileges

In the matter of Piher Semiconductores, S.A., Avda San Julian, s.n., Apartado Correos 177, Granallers (Barcelona), Spain.

By order of June 2, 1982, 47 FR 24765 (June 8, 1982), the Order of February 25, 1982, 47 FR 9044 (March 3, 1982) Temporarily Denying Export Privileges was amended so as to authorize certain exports by Piher International Corp. The Order of June 2, 1982 further provided that Piher International Corp. could apply for an extension of such authorization to export if serious economic hardship would be caused by a failure of such extension coupled with a continuing consideration of a motion filed by Piher International Corp. that requested exception from the provisions of Paragraph III of the Order of February 25, 1982.

Consideration of this motion is still continuing, and Piher International Corp. has now applied for an extension of its authorization to make certain exports, asserting that failure to obtain the extension will entail serious economic hardship.

Based on the representations made by Piher International Corp., I find that its application for an extension of its authorization to make certain exports is justified, and that granting this extension will not jeopardize the purpose of the Order of February 25, 1982.

Accordingly, it is hereby ordered that the Order of February 25, 1982 is further amended by excepting, from its denial of export privileges, Piher International Corp., with addresses at 565 W. Golf Road, Arlington Heights, Illinois 60005 and at Post Office Box 91969, Chicago, Illinois 60680, insofar as Piher International Corp. exports variable resistors and potentiometers to its customers in Canada and Singapore in fulfillment of shipments scheduled through September 1982 in the shipment release documents filed by Piher International Corp. in support of its application for this extension, provided all such exports are G-DEST under the Export Administration Regulations (15 CFR Part 368 *et seq.* (1981)). Piher International Corp. may apply for an extension of this Amendment to shipments scheduled after September 1982 should a continuing consideration of its aforesaid motion entail serious economic hardhip if such an extension is not issued.

This Amendment of the Order is effective immediately.

Dated: August 3, 1982.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 82-22459 Filed 8-16-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Decision To Continue as an Active Candidate Fagatele Bay, American Samoa for Sanctuary Designation and Intent To Prepare a Draft Management Plan and Environmental Impact Statement

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, authorizes the Secretary of Commerce, with Presidential approval, to designate ocean waters as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational, ecological, or aesthetic values. A nomination for designating Fagatele Bay, American Samoa as a national marine sanctuary was included in the List of Recommended Areas published in the **Federal Register** on April 9, 1982 (47 FR 15397) and was subsequently declared by the Assistant Administrator for Coastal Zone Management to be an Active Candidate on April 28, 1982 (47 FR 18164). An Issue Paper was prepared and distributed by OCZM in May 1982 and a public workshop was held in American Samoa to solicit further comments on the sanctuary proposal. Based on the workshop results and consultation with other Federal agencies and American Samoa officials, a decision has been made to continue as an Active Candidate the nomination for establishing a marine sanctuary in the waters of Fagatele Bay, American Samoa. This announcement has no applicability to OMB Circular A–95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects.

FOR FURTHER INFORMATION CONTACT: Mr. Kelvin Char, Regional Sanctuary Program Manager, Sanctuary Programs Office, Office of Coastal Zone Management, 3300 Whitehaven Street, NW., Washington, D.C. 20235, (202) 634–4236.

SUPPLEMENTARY INFORMATION: In March 1982, the Office of Coastal Zone Management (OCZM) received a marine sanctuary nomination from Governor Peter T. Coleman of American Samoa. The information provided in the proposal described the physiography of Fagatele Bay, its past and cuarrent uses, the purpose that would be served through its designation, and how the proposed area would be managed if it were accorded marine sanctuary status.

The proposed site is a 163-acre embayment located on an undeveloped portion of Tutuila, the largest and most populated island in American Samoa. This site was reviewed by NOAA to have met the criteria for inclusion of the List of Recommended Areas (LRA0 in accordance with § 922.21 (Analysis of Recommendations) of NOAA's procedures for designating marine sanctuaries (15 CFR Part 922). Following preliminary consultation with relevant Federal agencies, Territorial officials, and other interested parties in accordance with § 922.23(b) of the marine sanctuary program regulations, the Assistant Administrator declared the site an Active Candidate on April 28, 1982.

During April 1982, OCZM prepared and distributed an Issue Paper on the proposed marine sanctuary and, in accordance with Section 922.24(a) of the marine sanctuary program regulations, conducted a public workshop in American Samoa during May 1982. The purpose of the workshop was to assist NOAA and the Territory of American Samoa in their joint evaluation of the proposal.

Based on comments received at the workshop, discussions with Territorial officials, and the continuing support of the Governor of American Samoa for the joint Territorial-Federal evaluation process, the Assistant Administrator has determined to continue as an Active Candidate Fagatele Bay, American Samoa as a candidate for marine sanctuary designation and announces the intent to prepare a Draft Sanctuary Management Plan and Environmental Impact Statement.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: August 11, 1982.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

[FR Doc. 82–22445 Filed 8–16–82; 8:45 am]

BILLING CODE 3510–08–M

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Public Law 94–265), will meet to review status reports on the development of fishery management plans; consider foreign fishing applications, if any, as well as discuss other fishery management business.

ADDRESS: The public meetings will convene on Wednesday, September 8, 1982, at approximately 8:30 a.m., and adjourn at 5 p.m.; reconvene on Thursday, September 9, 1982, at approximately 8:30 a.m., and adjourn at approximately noon, at the Bay Harbor Inn, Chartroom Room, West, 7700 Courtney Campbell Causeway, Tampa, Florida.

FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: August 11, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82–22452 Filed 8–16–82; 8:45 am]

BILLING CODE 3510–22–M

New England Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Public Law 94–265), has established a Scientific and Statistical Committee, which will meet to discuss the relationship of science and fisheries regulation; discuss the redefinition of the Scientific and Statistical Committee's role vis-a-vis the Council and the Northeast Fisheries Center, etc.; discuss scientific working groups, as well as other Committee business.

DATES: The public meeting will convene on Wednesday, September 15, 1982, at approximately 9 a.m., and adjourn at approximately 5 p.m. The meeting may be lengthened or shortened or agenda items rearranged depending upon progress on same.

ADDRESS: The public meeting will take place at the Department of Marine Resources Laboratory, Boothbay, Maine.

FURTHER INFORMATION CONTACT: New England Fishery Management Council, Santaug Office Park, Route One, Saugus, Massachusetts 01906, Telephone: (617) 231–0422.

Dated: August 12, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-22451 Filed 8-16-82; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)

Dates of meeting: Thursday, September 23, 1982; Friday, September 24, 1982

Times: 0830-1700 hours on September 23 (Closed); 0830-1600 hours on September 24 (Closed)

Place: The Pentagon, Washington, D.C.

Agenda

The Army Science Board Functional Subgroup on C ^{3}I will meet to receive briefings and hold discussions in that specific area of Army research, development, and acquisition with respect to the major issues, developments, and opportunities. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagrpah (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-22444 Filed 8-16-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Special Services for Disadvantaged Students Program; Application Notice for Noncompeting Continuation Awards for Fiscal Year 1983

Applications are invited for noncompeting continuation awards under the Special Services for Disadvantaged Students Program.

Authority for this program is contained in Sections 417A and 417D of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d, 1070d-1b)

The Secretary awards grants under this program to institutions of higher education only. The purpose of the award is to allow applicants to carry out projects designed to provide supportive services to disadvantaged students who are pursuing programs of postsecondary education.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by September 20, 1982.

If an application for a noncompeting continuation award is late, the Department may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.042 (Special Services for Disadvantaged Students), Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing; (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily except Saturdays, Sundays, and Federal holidays.

Program Information: Successful applications for noncompeting continuation grants under the Special Services for Disadvantaged Students Program must administer their projects in accordance with the changes made in this program by the Education Amendments of 1980.

Available Funds: The Administration's Budget Request includes $57,400,000 to be made available for noncompeting continuation awards in Fiscal Year 1983. Although processing of the 640 eligible applications will proceed on the basis of the request, it should be noted that the level of funding is an estimate which does not bind the Department of Education.

Application Forms: Application forms for noncompeting continuation awards are expected to be ready for mailing no later than August 20, 1982. They are mailed routinely to currently funded projects. If a grantee does not receive the forms by August 31, 1982, the grantee should telephone the Information Systems and Program Support Branch of the Division of Student Services at (202) 245-7070.

Applications must be prepared and submitted in accordance with instructions and forms included in the program information package. The Secretary strongly urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to noncompeting continuation awards are:

(a) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78; and

(b) Regulations for the Special Services for Disadvantaged Students Program in 34 CFR Part 646 as published in the **Federal Register** on March 3, 1982 (47 FR 9150-9155).

Further information: For further information contact the Program Development Branch, Division of Student Services, U.S. Department of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-2511.

(20 U.S.C. 1070d, 1070d-1b)

Dated: August 12, 1982.

Thomas P. Melady,

Assistant Secretary for Postsecondary Education.

(Catalog of Federal Domestic Assistance Number: 84.042—Special Services for Disadvantaged Students Program)

[FR Doc. 82-22372 Filed 8-16-82; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Education; Meeting

AGENCY: National Advisory on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Executive Committee of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: September 2–3, 1982, 9:00 a.m. to 5:00 p.m.

ADDRESS: National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Helen Banks, Administrative Assistant, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004 (202/376–8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee is open to the Public. The proposed agenda includes:

Appropriations, FY 1983–84
Consolidation and Block Grants
Council Budget

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C. 20004, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, D.C., on August 12, 1981.

Rick Ventura,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 82-22363 Filed 8-16-82; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6460-000]

Paul J. Daniels; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

August 11, 1982.

Take Notice that on June 24, 1982, Paul J. Daniels (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6460 would be located on Dry Creek near Halfway in Baker County, Oregon. The proposed project would affect U.S. lands within Wallowa-Whitman National Forest. Correspondence with the Applicant should be directed to: Mr. Paul J. Daniels, Route 1, Box 280, Halfway, Oregon 97834.

Project Description.—The proposed project would consist of: (1) A 3.5-foot-high headgate; (2) a 24-inch-diameter, 3,665-foot-long steel penstock; (3) a powerhouse with a total installed capacity of 421 kW; and (4) a 12.5-kV transmission line to be built by the Idaho Power Company. The average annual energy output is estimated to be 2.062 million kWh.

Purpose of Exemption.—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments.—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Oregon Department of Fish and Wildlife are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application.—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before October 4, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 4, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's

regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22379 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 9, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
		OHIO DEPARTMENT OF NATURAL RESOURCES							
-ALLEN M ANDERSON		RECEIVED: 07/16/82 JA: OH							
8243690A		3416727012		103		JAMES VIA #2	FLEMING	10.0	
8243690B		3416727012	D	107-TF		JAMES VIA #2	FLEMING	10.0	
-ATWOOD RESOURCES INC		RECEIVED: 07/16/82 JA: OH							
8243691		3407523787		107-TF		JOAS MILLER #1	CLARK	15.0	
-BADGER OIL & GAS CO INC		RECEIVED: 07/16/82 JA: OH							
8243693		3411122720		107-DV		MCCAMMON #2	DEVONIAN SHALE - OHIO	0.0	COLUMBIA GAS TRAN
8243694		3411122802		107-DV		STRICKLING #1	DEVONIAN SHALE - OHIO	0.0	COLUMBIA GAS TRAN
-BARTLO OIL AND GAS COMPANY		RECEIVED: 07/16/82 JA: OH							
8243695		3410323086		103	107-TF	STARRE UNIT #1	WEST RICHFIELD	20.0	
-BB ENERGY CORP		RECEIVED: 07/16/82 JA: OH							
8243692A		3408924410		103		KELLENBARGER #1	BROWNSVILLE	12.0	COLUMBIA GAS TRAN
8243692B		3408924410	D	107-TF		KELLENBARGER #1	BROWNSVILLE	12.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION		RECEIVED: 07/16/82 JA: OH							
8243696		3416727193		103	107-TF	RAYMOND & RUBY KELLER #2	PALMER	0.0	COLUMBIA GAS TRAN
-BILL BLAIR INCORPORATED		RECEIVED: 07/16/82 JA: OH							
8243699		3402908700		103	107-TF	HARDY #1	HOMEWORTH	14.0	EAST OHIO GAS CO
8243700		3402920871		103	107-TF	HARDY #2	HOMEWORTH	14.0	EAST OHIO GAS CO
8243697		3402920829		103	107-TF	HOOVER #1	HOMEWORTH	20.0	EAST OHIO GAS CO
8243698		3402920868		103	107-TF	SANOR #3	HOMEWORTH	17.0	EAST OHIO GAS CO
-BUCKEYE OIL PRODUCING CO		RECEIVED: 07/16/82 JA: OH							
8243715		3416922184		107-RT		W NEUENSCHWANDER #1	SUGAR CREEK	12.0	COLUMBIA GAS TRAN
-COLUMBIA GAS TRANSMISSION CORP		RECEIVED: 07/16/82 JA: OH							
8243808		3411921244		108		ABBE CARRELL 709146	SOUTHERN DIST STE OF	0.3	COLUMBIA GAS TRAN
8243737		3407521511		108		ADEN E MILLER ETAL 711166	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243815		3416309359		108		ALMA GREGORY 705362	SOUTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8243729		3407520026		108		ALVIN J YODER 706413	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243792		3411500369		108		C MARSHALL LOWE 707663	SOUTHERN DIST STE OF	0.4	COLUMBIA GAS TRAN
8243747		3409300023		108		CARL J MEZUREK 707520	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243770		3410320497		108		CARROLL R SHAW GDN 707737	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243775		3410320571		108		CHRISTINE D WENZ 707950	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243805		3411920573		108		CLARENCE MONLUX 708043	SOUTHERN DIST STE OF	0.5	COLUMBIA GAS TRAN
8243762		3410320362		108		CLEVELD METROPOLITAN 707021	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243807		3411921184		108		CONSOLIDATION COAL 708870	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243744		3408920508		108		DARWIN L POUND 706935	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243814		3415720090		108		DAVID A HEGELE 709694	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243758		3410300023		108		DAVID E SWINEY AG 705002	NORTHERN DIST STE OF	5.0	COLUMBIA GAS TRAN
8243760		3410320343		108		DON YARMAN 706943	NORTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8243799		3411920250		108		DONALD A BURWELL 707077	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243781		3410321029		108		E DANIEL KINDIG AGT 705021	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243787		3410520531		108		EDWARD SYCKS 707865	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8243791		3411520344		108		EFFIE JACKSON 707482	SOUTHERN DIST STE OF	0.4	COLUMBIA GAS TRAN
8243772		3410320539		108		ELSIE M HUMMEL 707892	NORTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8243725		3403520083		108		EST OF WM J ROBINSON 707748	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243726		3403520084		108		EST OF WM J ROBINSON 707796	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243745		3409300004		108		ESTATE HOMES INC 708903	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243783		3410500450		108		ETHEL COCHRAN 706080	SOUTHERN DIST STE OF	6.0	
8243717		3400520145		108		F RAY BECKER 706953	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243763		3410320375		108		FLOYD F SMITH 707085	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243821		3416921450		108		FOREST HUTCHINSON 710952	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243740		3408700127		108		FORREST WELLS 706914	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243786		3410520525		108		FRANK CHANEY 707849	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243776		3410320578		108		FRANK J MARREK 708047	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243723		3400921122		108		GARNET P MICKLE 709348	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243749		3409300033		108		GEORGE HINTZ 708872	NORTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8243778		3410320845		108		GEORGE M WHITSON 709021	NORTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8243735		3407520173		108		GEORGE R BOWER 707756	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243806		3411920759		108		GLADYS M CARR 708286	SOUTHERN DIST STE OF	0.1	COLUMBIA GAS TRAN
8243734		3407520143		108		GLEN JUNIOR MARTIN 707590	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243784		3410520349		108		GLENICE C COLLINS 706996	SOUTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8243788		3410520534		108		GRACE K TOM 707904	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243795		3411920419		108		H J SOLLER 707771	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243716		3400500016		108		HAZEL M SPRINKLE 706958	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243732		3407520103		108		HELEN BOYD MITTEN 707100	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243750		3409320052		108		HERMA ENGLEMANN 708709	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243790		3410521252		108		HOMER H BANKS 709937	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243793		3411500379		108		HOWARD B WOGAN 707707	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243780		3410320979		108		JAMES A PORTER 708946	NORTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8243777		3410320587		108		JAMES KRIVACIC 708064	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243721		3400920680		108		JAMES W CLARK 707687	SOUTHERN DIST STE OF	0.7	COLUMBIA GAS TRAN
8243742		3408700129		108		JAY E SCHNEIDER 707863	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243746		3409300012		108		JERRY J ROSENTHAL 704436	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243789		3410520637		108		JOHN E CANTU 708228	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243765		3410320385		108		JOHN J TAYLOR 707166	NORTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8243801		3411900391		108		JOHN LUDMAN TRUSTEE 704836	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243761		3410320356		108		JOHN T LUCAS 706975	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243756		3409320416		108		JOSEPH FRANK MULL 709464	NORTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8243757		3410300012		108		JOSEPH W KOCAB 707592	NORTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8243753		3409320170		108		KATHERINE YURKAVITZ 707102	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243819		3416920181		108		KENNETH R MILLER 707837	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243720		3400900537		108		LAVESTCO INC 700264	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8243813		3415120669		108		LUCILLE MILLER 709741	NORTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8243782		3410520044		108		MACK TAGGART 706202	SOUTHERN DIST STE OF	6.0	COLUMBIA GAS TRAN
8243803		3411920506		108		MARION E DAWSON 707937	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243816		3416721315		108		MARK A DAILEY 706911	SOUTHERN DIST STE OF	0.4	COLUMBIA GAS TRAN
8243773		3410320544		108		MARTHA BEACH 707895	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243764		3410320378		108		MARY DANCHAK 707138	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243818		3416920051		108		MELVIN A GERSPACHER 708241	NORTHERN DIST STE OF	0.7	COLUMBIA GAS TRAN
8243730		3407520080		108		MELVIN L YODER 706832	SOUTHERN DIST STE OF	6.0	COLUMBIA GAS TRAN
8243759		3410320241		108		MERL E LYONS 707551	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243736		3407520247		108		MICHAEL L SCHAFRATH 707098	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243779		3410320959		108		MILDRED B MCGREGOR 709308	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243820		3416920892		108		MYRTLE POTATO FARMS 710042	NORTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8243817		3416900097		108		NEALE G BARTTER 707886	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API No	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8243751		3409320139		108		NEVA A CRUM 706781	NORTHERN DIST STE OF	6.0	COLUMBIA GAS TRAN
8243755		3409320253		108		NEVA A CRUM 707316	NORTHERN DIST STE OF	0.0	COLUMBIA GAS TRAN
8243771		3410320516		108		NOBLE STUART 707820	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243797		3411520526		108		PLETCHER BROTHERS 708271	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243802		3411920415		108		RALPH M HAYNES 707758	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243768		3410320484		108		RAY LARIBEE TRUSTEE 707690	NORTHERN DIST STE OF	0.7	COLUMBIA GAS TRAN
8243804		3411920520		108		RICHARD GILL 707961	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243743		3408900009		108		ROBERT & MARY JACKS 707030	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243798		3411920244		108		ROBERT E STAKER 707070	SOUTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8243809		3411921630		108		ROBERT LIGHTHIZER 710140	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8243811		3412720217		108		ROBERT LYNN 706731	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8243769		3410320488		108		RODGER D RUMBAUGH 707731	NORTHERN DIST STE OF	0.8	COLUMBIA GAS TRAN
8243785		3410520503		108		ROGER SHULTZ 707673	SOUTHERN DIST STE OF	0.5	COLUMBIA GAS TRAN
8243733		3407520111		108		ROMAN HERSHBERGER 707144	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243718		3400520146		108		ROSS S SELLERS 706948	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8243731		3407520087		108		SARAH M STROLL 706907	SOUTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8243754		3409320178		108		SCHEUTTOW HELICOPTER 707171	NORTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8243794		3411520401		108		STOCKPORT SAND & GRAVEL 707839	SOUTHERN DIST STE OF	0.3	COLUMBIA GAS TRAN
8243810		3412701035		108		SUNDAY CK COAL CO 707928	SOUTHERN DIST STE OF	0.4	COLUMBIA GAS TRAN
8243724		3403500008		108		SUNRISE DEVELOPMENT 704066	NORTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8243812		3412721605		108		THOMAS A WILSON 709125	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243738		3408300012		108		THOMAS E WHITNEY 706982	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243727		3407500339		108		THOMAS L ARNOLD 707558	SOUTHERN DIST STE OF	0.0	COLUMBIA GAS TRAN
8243728		3407500501		108		THOMAS L ARNOLD 707559	SOUTHERN DIST STE OF	0.0	COLUMBIA GAS TRAN
8243774		3410320566		108		VERNA CAVES 707985	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243796		3411520436		108		VERONICA S REED 707915	SOUTHERN DIST STE OF	0.2	COLUMBIA GAS TRAN
8243741		3408700128		108		VIRGIL CAIN 706925	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243719		3400520211		108		WALLACE W RAMSIER 707479	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243767		3410320412		108		WALTER KUCHTA 707176	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243752		3409320160		108		WELDEN A HULLIGAN 706985	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8243722		3400920715		108		WILLIAM A HINES 707870	SOUTHERN DIST STE OF	0.7	COLUMBIA GAS TRAN
8243766		3410320408		108		WILLIAM MANACAPILLI 707159	NORTHERN DIST STE OF	0.9	
8243800		3411920262		108		WILSON CONSTRUCTION 707121	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8243748		3409300029		108		WREN L BURRER 704864	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
-CUYAHOGA EXPLORATION & DEVELOPMENT		RECEIVED: 07/16/82 JA: OH							
8243824		3412122783		107-DV		HERMAN BROCK #4	STAFFORD	43.8	
-DEVON PETROLEUM CORP		RECEIVED: 07/16/82 JA: OH							
8243825		3416726402		107-DV		CHARLES WAGNER #3	DUNHAM	35.0	RIVER GAS CO
8243827		3416727033		107-DV		HOWARD & OLIVE STONE #1	DECATUR	35.0	RIVER GAS CO
8243828		3416727041		103		KENNETH R CHRISTOPHER #1	BARLOW	35.0	
8243826		3416727032		103		RONALD & SHELBA MAYLE #1	DUNHAM	10.0	RIVER GAS CO
-EARTH RESOURCES EXPL DEV CORP		RECEIVED: 07/16/82 JA: OH							
8243829		3413322567		103	107-TF	J FORTUNE #1-A	NELSON SOUTHEAST	30.0	
8243830		3413322568		103	107-TF	PRINCE #1	NELSON	55.0	
8243831		3413322746		103	107-TF	R NEMES #1	NELSON LEDGES EAST	60.0	
-EDCO DRILLING & PRODUCING INC		RECEIVED: 07/16/82 JA: OH							
8243833		3403124640		103	107-TF	HARMON WB-2A	RANDLE	18.0	
8243832		3403124585		103	107-TF	SNYDER WB-1A	RANDLE	18.0	
8243835		3407523627		103	107-TF	TROYER WB-2A	FREDERICKSBURG	18.0	
8243834		3407523462		103	107-TF	TROYER WB-2D	WILMOT	18.0	
-ENERGY PRODUCTION INC		RECEIVED: 07/16/82 JA: OH							
8243836		3409921413		103	107-TF	STOUFFER UNIT #1	CANFIELD	48.0	EAST OHIO GAS CO
-ENERGY UNLIMITED INC		RECEIVED: 07/16/82 JA: OH							

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8243838		3400922548		107-TF		JONES #2	LODI TWP	0.0	COLUMBIA GAS TRAN
8243837		3400922506		107-TF		KERKIAN #1	CARTHAGE TWP	0.0	COLUMBIA GAS TRAN
-FORAKER PRODUCING COMPANY INC				RECEIVED:	07/16/82	JA: OH			
8243840		3412725008		107-TF		RODGERS #1	CLAYTON	12.0	
8243839		3411925566		107-TF		WINEGARDNER #1	NEWTON	0.0	
-FRANK A CSAPO JR				RECEIVED:	07/16/82	JA: OH			
8243822		3410322972		103	107-TF	CLELA JOHNSON #1	GUILFORD	12.0	COLUMBIA GAS TRAN
8243823		3410323021		103	107-TF	ELAM & EVA RICHARD #1	GUILFORD	12.0	COLUMBIA GAS TRAN
-FRONTIER PETROLEUM LTD				RECEIVED:	07/16/82	JA: OH			
8243842		3411122840		103	107-TF	WADE RAY #1	DALZELL	12.0	COLUMBIA GAS TRAN
8243843		3411122841		103	107-TF	WADE RAY #2	DALZELL	12.0	COLUMBIA GAS TRAN
8243841		3411121968		103	107-TF	WILMA KATHARY #1	RINARD MILLS	42.0	COLUMBIA GAS TRAN
-G W F CORP				RECEIVED:	07/16/82	JA: OH			
8243850		3400922400		107-TF		HOWARD SIMPSON #1	HOWARD SIMPSON	10.0	
8243844		3400922123		107-TF		JEAN HUBBARD #3	JEAN HUBBARD	13.0	
8243848		3400922139		107-TF		JOHN ALDEN #1	JOHN ALDEN	13.0	
8243847		3400922126		107-TF		JOHN BERRY #2	JOHN BERRY	14.0	
8243846		3400922125		107-TF		JOHN BERRY #3	JOHN BERRY	10.0	
8243849		3400922330		107-TF		JOHN BERRY #5	JOHN BERRY	15.0	
8243845		3400922124		107-TF		PHILLIPS LAVELLE #2	PHILLIP LAVELLE	15.0	
-H & S OPERATING COMPANY				RECEIVED:	07/16/82	JA: OH			
8243851		3415123683		103		BOETTLER #2	MARLBORO	5.0	EAST OHIO GAS CO
8243852		3415123684		103		L J YODER #1	HARTVILLE	15.0	EAST OHIO GAS CO
-HOPCO RESOURCES INC				RECEIVED:	07/16/82	JA: OH			
8243855		3411926094		103	107-TF	MCCANN #3	DRESDEN	12.0	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	07/16/82	JA: OH			
8243856		3412725418		103		BEULAH & BRUCE COMSTOCK #3	JACKSON	10.0	COLUMBIA GAS TRAN
8243857		3412725568		103		BEULAH & BRUCE COMSTOCK #4	JACKSON	12.0	COLUMBIA GAS TRAN
-INTEGRATED PETROLEUM COMPANY INC				RECEIVED:	07/16/82	JA: OH			
8243858		3405520358		103	107-TF	JOE J S MILLER #1	PARKMAN	42.0	
-JONSU OIL CORP				RECEIVED:	07/16/82	JA: OH			
8243859		3408924021		103		THOMAS #3	FALLSBURY	5.0	
-KEN-TRAK				RECEIVED:	07/16/82	JA: OH			
8243861		3410522209		107-TF		JAMES MASH #1	2ND BEREA (LOWER MISS	0.0	COLUMBIA GAS TRAN
8243870		3410522291		107-TF		JAMES MASH #2	2ND BEREA (LOWER MISS	0.0	COLUMBIA GAS TRAN
8243862		3410522210		107-TF		JAMES QUILLEN #1	2ND BEREA (LOWER MISS	4.0	COLUMBIA GAS TRAN
8243860		3410522132		107-TF		ROBERT DAILEY #1	2ND BEREA (LOWER MISS	0.0	COLUMBIA GAS TRAN
-KEN-TRAK II				RECEIVED:	07/16/82	JA: OH			
8243869		3410522290		107-TF		KENNETH F MOLZ #1	2ND BEREA (LOWER MISS	4.0	COLUMBIA GAS TRAN
8243864		3410522234		107-TF		LESTER SHOEMAKER #1 SOUTH	2ND BEREA (LOWER MISS	6.0	COLUMBIA GAS TRAN
-KEN-TRAK III				RECEIVED:	07/16/82	JA: OH			
8243863		3410522233		107-TF		CARROLL SMITH #1	2ND BEREA (LOWER MISS	4.0	COLUMBIA GAS TRAN
8243865		3410522246		107-TF		CITY OF RUTLAND #1	2ND BEREA (LOWER MISS	4.0	COLUMBIA GAS TRAN
-KEN-TRAK IV				RECEIVED:	07/16/82	JA: OH			
8243868		3410522272		107-TF		GILLETTE WHITE #1	2ND BEREA LOWER MISSI	0.0	COLUMBIA GAS TRAN
8243871		3410522294		107-TF		ROBERT DAILEY #3	2ND BEREA (LOWER MISS	5.0	COLUMBIA GAS TRAN
8243866		3410522255		107-TF		SHOEMAKER #3 SOUTH	2ND BEREA (LOWER MISS	4.0	COLUMBIA GAS TRAN
-KEN-TRAK V				RECEIVED:	07/16/82	JA: OH			
8243867		3410522271		107-TF		LESTER SHOEMAKER #2 NORTH	2ND BEREA (LOWER MISS	6.0	COLUMBIA GAS TRAN
8243872		3410522298		107-TF		WILLIAM WILLIAMS #2	LOWER MISSISSIPPIAN (	4.0	COLUMBIA GAS TRAN
-KING DRILLING CO				RECEIVED:	07/16/82	JA: OH			
8243873		3416921712		103		A RAMSEYER #1	ORRVILLE	10.0	EAST OHIO GAS CO
8243874		3416923239		103		HOSTETLER #1	ORRVILLE	10.0	EAST OHIO GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-KRAMER EXPLORATION CO				RECEIVED:		07/16/82 JA: OH			
8243875		3405320577		107-TF		SISSON #1	CHESHIRE	15.0	COLUMBIA GAS TRAN
-LAKE REGION OIL INC				RECEIVED:		07/16/82 JA: OH			
8243876		3415123685		103		CHESTER CHRISTMAN #1	BOLIVAR	0.0	EAST OHIO GAS CO
-LUDCO INC				RECEIVED:		07/16/82 JA: OH			
8243877		3411921445		103		HARDESTY #3	JACKSON	8.0	
-NEIHART EXPLORATION & DEVELOPMENT C				RECEIVED:		07/16/82 JA: OH			
8243880		3412122618		107-DV		ROBERT ULLMAN #8A	ELK	60.0	
-NEIL R. WYNN				RECEIVED:		07/16/82 JA: OH			
8243914		3416727170		103		J LAMP #1	PALMER	2.0	RIVER GAS CO
-NUCORP ENERGY COMPANY				RECEIVED:		07/16/82 JA: OH			
8243881		3400721566		103	107-TF	EDGELL #1	COLEBROOK	21.0	OHIO GAS CO
-ORION ENERGY CORP				RECEIVED:		07/16/82 JA: OH			
8243882		3415723663		103		MCFADDEN #2	FRANKLIN	30.0	EAST OHIO GAS CO
8243883		3415723676		103		STANSBURY UNIT #1	GOSHEN	30.0	EAST OHIO GAS CO
-OXFORD OIL CO				RECEIVED:		07/16/82 JA: OH			
8243884		3407523717		103		ALTON SMAIL UNIT #1	GLENMONT	10.0	
8243887		3416923080		103		CALVIN FRYE #11	WOOSTER	10.0	
8243885		3411522275		107-TF		FRED BATESON #1	DEERFIELD	8.0	
8243886		3411926090		103		THELSTON MCCOY #1	CROOKSVILLE	10.0	
-PREMIER ENERGY CORP				RECEIVED:		07/16/82 JA: OH			
8243890		3411122160		107-DV		CLAYTON CRUM #1	MALAGA	3.7	TEXAS EASTERN TRA
8243888		3401320357		107-DV		PAUL E MILLER #2	SOMERSET	7.3	TEXAS EASTERN TRA
8243889		3411122131		107-DV		STILLION #1	MALAGA	6.2	NATIONAL PETROLEU
-R GENE BRASEL DBA BRASEL & BRASEL				RECEIVED:		07/16/82 JA: OH			
8243701		3405320372		107-RT		COLUMBIA - POLCYN 1	ADDISON	5.0	COLUMBIA GAS TRAN
8243705		3405320550		103	107-TF	F SISSON #2	CHESHIRE	2.0	COLUMBIA GAS TRAN
8243706		3405320653		107-TF		FRED SISSON #3	CHESHIRE	3.0	COLUMBIA GAS TRAN
8243707		3405320654		107-TF		FRED SISSON #4	CHESHIRE	3.0	COLUMBIA GAS TRAN
8243709		3405320673		103	107-TF	J WILLS #2	CHESHIRE	2.0	COLUMBIA GAS TRAN
8243710		3405320674		103	107-TF	J WILLS #3	CHESHIRE	2.0	COLUMBIA GAS TRAN
8243704		3405320514		107-TF		JAMES CLARK #1	ADDISON	2.0	COLUMBIA GAS TRAN
8243708		3405320655		107-TF		M DARNELL #2	CHESHIRE	2.5	COLUMBIA GAS TRAN
8243703		3405320440		107-RT		PAUL SEARLES #1	CHESHIRE	1.5	COLUMBIA GAS TRAN
8243711		3405320706		107-TF		R O J #2-A	CHESHIRE	1.0	COLUMBIA GAS TRAN
8243713		3405320738		107-TF		R O J #5-B	ADDISON	1.0	COLUMBIA GAS TRAN
8243714		3405320739		107-TF		R O J #6-B	ADDISON	1.0	COLUMBIA GAS TRAN
8243712		3405320736		107-TF		R O J 3-B	ADDISON	1.0	COLUMBIA GAS TRAN
8243702		3405320416		107-RT		ROY HUNTER #1	CHESHIRE	1.5	COLUMBIA GAS TRAN
-REPUBLIC MINERAL CORP				RECEIVED:		07/16/82 JA: OH			
8243893		3416726934		107-DV		CLARA HENNIGER #5	SIMMONS	2.1	COLUMBIA GAS OF O
8243896		3416727134		107-DV		DAVID BROOKER #1	SIMMONS	7.3	COLUMBIA GAS OF O
8243895		3416727133		107-DV		PAUL ARNOLD - JAMES ARCHER 1-A	SIMMONS	2.4	COLUMBIA GAS OF O
8243892		3416726744		107-DV		RUSSELL MARTIN #4	SIMMONS	8.0	COLUMBIA GAS OF O
8243894		3416727037		107-DV		VELMA V TOLLEY #1	SIMMONS	2.7	COLUMBIA GAS OF O
-ROYAL LEVERAGED LTD 81-II				RECEIVED:		07/16/82 JA: OH			
8243897		3405320718		103		HARMONY QUARTERLY CONFERENCE #1	ADDISON	5.0	COLUMBIA GAS TRAN
8243898		3405320719		103		HARMONY QUARTERLY CONFERENCE #2	ADDISON	5.0	COLUMBIA GAS TRAN
8243899		3405320720		103		HARMONY QUARTERLY CONFERENCE #3	ADDISON	5.0	COLUMBIA GAS TRAN
-S & R OIL CO				RECEIVED:		07/16/82 JA: OH			
8243902		3400922323		107-TF		DEHSE O & D & CHRISTMAN A & B #2	BERN	12.0	
-SANDHILL ENERGY INC (OH)				RECEIVED:		07/16/82 JA: OH			
8243950		3416726981		103		EARLEY #3	NEW MATAMORAS	9.1	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SCHNEIDER GAS CO				RECEIVED: 07/16/82 JA: OH					
8243901		3408723316		107-DV		J E & D J SCHNEIDER #1	WINDSOR	12.0	COLUMBIA GAS TRAN
-SHELLY & SANDS OIL CO				RECEIVED: 07/16/82 JA: OH					
8243904		3400922366		107-TF		CLINTON F BROWN #2	AMES	12.0	
8243903		3400922324		107-TF		JAMES & THELMA NELSON #3	BERN	12.0	
-TEMPLE OIL & GAS CO				RECEIVED: 07/16/82 JA: OH					
8243906		3411522389		107-TF		SECKMAN-SMITH UNIT #1	YORK	10.0	
-TIGER OIL INC				RECEIVED: 07/16/82 JA: OH					
8243910		3412122797		103	107-TF	BERTHA HENDERSHOT #1	ELK	0.0	COLUMBIA GAS TRAN
8243907		3403124129		107-TF		L RANDLES #1	RANDLE	0.0	NATIONAL GAS & OI
8243908		3403124131		107-TF		L RANDLES #2	RANDLE	0.0	NATIONAL GAS & OI
8243909		3407322669		107-TF		STALTER-OLIVER #1	STARR	0.0	COLUMBIA GAS TRAN
-VICTOR MCKENZIE				RECEIVED: 07/16/82 JA: OH					
8243878		3411926172		103	107-TF	GEORGE THOMPSON #1	ZANESVILLE EAST	0.0	COLUMBIA GAS TRAN
8243879		3411926173		103	107-TF	JOHN FREEMAN #1	CROOKSVILLE	0.0	COLUMBIA GAS TRAN
-W E SHRIDER CO				RECEIVED: 07/16/82 JA: OH					
8243905		3412725460		103		WALTER WHITMER #5	MONDAY CREEK	3.0	FORAKER GAS CO IN
-WILLIAM F HILL				RECEIVED: 07/16/82 JA: OH					
8243854		3407523755		103		ELIZABETH I BUCHWALTER #1	GREER	6.0	
8243853		3407523753		103		RUTH DININGER #1	GREER	7.0	
-WILLIAM H PUTNAM				RECEIVED: 07/16/82 JA: OH					
8243891		3416726515		107-DV		GRANT EDWARDS & GEORGE DELPH #2	INDEPENDENCE	11.0	COLUMBIA GAS TRAN
-WILLIAM N TIPKA				RECEIVED: 07/16/82 JA: OH					
8243913		3416923035		103	107-TF	EARL CRUMMEL #1	CHIPPEWA	0.0	EAST OHIO GAS CO
8243911		3410322859		103	107-TF	JOHN MCCLELLAND #2	SHARON	0.0	BARTLO OIL & GAS
8243912		3415723695		103	107-TF	ROBT WILLISON #1	PERRY	0.0	LIBBY-OWENS-FORD

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before September 1, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1:New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 13,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–22344 Filed 8–16–82; 8:45 am]
BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 9, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MONTANA BOARD OF OIL & GAS CONSERVATION									
-TERRAPET CORP				RECEIVED:	07/19/82	JA: MT			
8244062	2-81-18	2509121220		102-2		BOLSTAD #1-17	PELICAN	25.0	PHILLIPS PETROLEU
8244058	2-81-19	2508521163		102-2		CRUSCH #1-3	NORTH BAINVILLE	60.0	PHILLIPS PETROLEU
8244063	2-81-20	2508521134		102-2		HARMON #1-29	OXBOW	18.0	PHILLIPS PETROLEU
8244061	2-81-21	2508521143		102-2		RUDOLPH #1-8	MCCABE	12.0	PHILLIPS PETROLEU
8244064	2-81-22	2508521133		102-2		SUNDHEIM #1-35	BAINVILLE	15.0	PHILLIPS PETROLEU
8244059	2-81-23	2508521196		102-2		SUNDHEIM #2-35	BAINVILLE	25.0	PHILLIPS PETROLEU
8244060	2-81-24	2508521148		102-2		TRIPLETT #1	ROCKY POINT	18.0	PHILLIPS PETROLEU
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-TEXACO INC				RECEIVED:	07/19/82	JA: NM			
8244057		3002500000		103		C H WEIR "A" #12	SKAGGS ABO	274.5	EL PASO NATURAL G
OKLAHOMA CORPORATION COMMISSION									
-AN-SON CORPORATION				RECEIVED:	07/19/82	JA: OK			
8244116	19773	3512920657		107-DP		MCDANIEL #1-8	SOUTH DEMSEY	177.0	
*8244082	15255	3501520825		108		RUTH #1	EAKLEY	21.6	PRODUCERS GAS CO
*8244128	15256	3506100000		108		SLATER #1	LEQUIRE	11.6	ARKANSAS LOUISIAN
8244115	19772	3514920251		107-DP		WALTON #1-10	N E BURNS FLAT	1916.0	EL PASO NATURAL G
-ANADARKO PRODUCTION COMPANY				RECEIVED:	07/16/82	JA: OK			
8244022	15434	3508920037		103		CALVERT A-1	IRON CHAPEL	50.0	SUN GAS CO
8244014	15390	3513921488		102-4		SHAWVER "A" #2	FOX BLOCK PROSPECT	110.0	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED:	07/19/82	JA: OK			
8244067	18090	3500722229		102-4		FRANZ "E" #1	FLORIS	55.0	PANHANDLE EASTERN
-APOLLO PRODUCTION LTD				RECEIVED:	07/16/82	JA: OK			
8244002	17174	3507323489		102-4 103		KELLER #35-7	SOONER TREND	40.0	SID RICHARDSON CA
-BECK PRODUCTION CO				RECEIVED:	07/19/82	JA: OK			
8244094	13125	3503120729		102-2		MAX #1	WEST DUNCAN	0.0	NATURAL GAS OPERA
-BOGERT OIL CO				RECEIVED:	07/15/82	JA: OK			
8243990	15293	3507323145		103		BARBARA #1-34	SOONER TREND	225.0	PHILLIPS PETROLEU
8243985	15292	3507323446		103		CHLOUBER 5-16	SOONER TREND	225.0	PHILLIPS PETROLEU
-BOGERT OIL CO				RECEIVED:	07/16/82	JA: OK			
8244006	15388	3507371172		103		BARBARA #2-34	SOONER TREND	300.0	PHILLIPS PETROLEU
-BROCK HYDROCARBONS INC				RECEIVED:	07/15/82	JA: OK			
8243983	15270	3507920422		103		PERKINS #1-27	S POCOLA	0.0	ARKANSAS LOUISIAN
-BURKHART PETROLEUM CORP				RECEIVED:	07/12/82	JA: OK			
8243934	15316	3520735713		103		FONTENIER 1-12	S E NOBLE	30.0	MUSTANG FUEL CORP
-BURKHART PETROLEUM CORP				RECEIVED:	07/15/82	JA: OK			
8243979	15394	3502720520		103		TOWNSEND 1-13	S F NOBLE	30.0	MUSTANG FUEL CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-C & L EXPLORATION INC				RECEIVED:	07/14/82	JA: OK			
8243944	18120	3514700000		102-2		BLEVINS #2	BLEVINS	36.0	MARION PIPELINE C
-C & T RESOURCES				RECEIVED:	07/14/82	JA: OK			
8243968	12839	3511100000		103		ARNOLD #1-27	MORRIS DIST	0.0	PHILLIPS PETROLEU
-CLARK RESOURCES INC				RECEIVED:	07/14/82	JA: OK			
8243948	15242	3509321753		108		BOEHS 18-1	SOONER TREND	25.0	CITIES SERVICE GA
-CONOCO INC				RECEIVED:	07/19/82	JA: OK			
8244078	15339	3504320432		108		USA "17" #1	WEST VALLEY CENTER	12.0	PANHANDLE EASTERN
-COTTON PETROLEUM CORPORATION				RECEIVED:	07/16/82	JA: OK			
8244013	19605	3505121132		107-DP		ROBERTS "A" #1	RUSH SPRINGS	0.0	UNITED GAS PIPELI
-DALCO PETROLEUM INC				RECEIVED:	07/12/82	JA: OK			
8243935	15335	3507322476		103		LANKARD #1	SOONER TREND	91.3	DALCO PETROLEUM U
-DALCO PETROLEUM INC				RECEIVED:	07/14/82	JA: OK			
8243950	15332	3504722457		103		WHITE #1	SOUTHWEST ELKHORN	91.3	EASON OIL CO
-DEAN CLARK				RECEIVED:	07/14/82	JA: OK			
8243959	14695	3511121935		108		AYERS-MANOR #1-17	N BEGGS SEC 17 T14N R	14.4	PHILLIPS PETROLEU
-ECC OIL CO				RECEIVED:	07/14/82	JA: OK			
8243961	14405	3514721571		102-2		MITCHELL 1 #3A	EAST DEWEY	157.0	OKAN GAS CO
-EDWIN L COX				RECEIVED:	07/12/82	JA: OK			
8243922	14770	3512120443		108		RAMBO UNIT #1	SOUTH ASHLAND FIELD	12.0	OKLAHOMA GAS & EL
-EL PASO NATURAL GAS COMPANY				RECEIVED:	07/19/82	JA: OK			
8244129	19642	3500920478		107-DP		SIMMERMAN #1	ELK CITY UPPER MORROW	587.0	EL PASO NATURAL G
-ENERGY RESERVES GROUP INC				RECEIVED:	07/15/82	JA: OK			
8243987	15275	3510321493		103		DEVORE #9	POLO	21.6	AMINOIL USA INC
-ENERGY RESERVES GROUP INC				RECEIVED:	07/19/82	JA: OK			
8244131	15370	3509322373		103		J B LOHRENZ #3	RINGWOOD	125.7	PANHANDLE EASTERN
-EXXON CORPORATION				RECEIVED:	07/19/82	JA: OK			
8244126	19679	3514920134		107-DP		LOWRY GAS UNIT #1	WILDCAT	1.0	EL PASO NATURAL G
-FALCON PETROLEUM COMPANY				RECEIVED:	07/15/82	JA: OK		55.0	PHILLIPS PETROLEU
8243997	15284	3500722047		103		MITCHELL #2			
-FUNK EXPLORATION INC				RECEIVED:	07/14/82	JA: OK			
8243969	13083	3507322904		103		WITTROCK #2	SOONER TREND	0.0	CONOCO INC
-G N RUPE				RECEIVED:	07/14/82	JA: OK			
8243983	14476	3510720736		108		BLOSS #1	SHELDON POOL	10.0	PHILLIPS PETROLEU
8243962	14475	3511121605		108		COKER #1	BRINTON POOL	0.0	PHILLIPS PETROLEU
-G N RUPE				RECEIVED:	07/15/82	JA: OK			
8243995	15276	3510700000		103		SMITH "B" #1	BLAKELY	50.0	PHILLIPS PETROLEU
-GENERAL TRADING CO INC				RECEIVED:	07/12/82	JA: OK			
8243933	15313	3503723076		103		WHITMORE #1	MILFAY	12.0	KERR MCGEE CORP
-GLENCO PETROLEUM CORP				RECEIVED:	07/19/82	JA: OK			
8244077	15286	3506321427		103		O N BOLT #1		164.0	PUBLIC SERVICE CO
-GODFREY OIL PROPERTIES				RECEIVED:	07/12/82	JA: OK			
8243929	15057	3509500000		108		AYLESWORTH A-1 #1		5.5	PIONEER GAS PRODU
8243926	15040	3509500000		108		JACK H DAVIS #1		11.8	PIONEER GAS PRODU
8243927	15042	3509500000		108		PURE-DRUMMOND #1		8.0	PIONEER GAS PRODU
8243930	15058	3509500000		108		WARREN JONES #3		1.3	PIONEER GAS PRODU
8243928	15056	3509500000		108		WARREN JONES "B" #1		7.8	PIONEER GAS PRODU
-GODFREY OIL PROPERTIES				RECEIVED:	07/14/82	JA: OK			
8243953	15066	3509500000		108		AYLESWORTH UNIT #1		7.8	PIONEER GAS PRODU
8243956	15067	3509500000		108		AYRES #2		1.2	PIONEER GAS PRODU
8243954	15068	3509500000		108		AYRES #3		1.2	PIONEER GAS PRODU
8243952	15069	3509500000		108		AYRES #4		1.0	PIONEER GAS PRODU
8243960	15037	3509500000		108		GODFREY-NEFF "B" #1		3.6	PIONEER GAS PRODU

JD NO	JA.DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8243958	15061	3509500000		108		GODFREY-NEFF "B" #2		3.7	PIONEER GAS PRODU
8243957	15062	3509500000		108		HORSLEY (CRA) #1		14.0	PIONEER GAS PRODU
8243955	15063	3509500000		108		HORSLEY (RAG) #1		5.4	PIONEER GAS PRODU
-GULFSTREAM PETROLEUM CORP				RECEIVED:	07/15/82	JA: OK			
8243972	17161	3500320677		102-4		ARTHUR ECK #2-18	W CARRIER PROSPECT	566.0	PANHANDLE EASTERN
-HENRY OIL & GAS INC				RECEIVED:	07/19/82	JA: OK			
8244084	14919	3503723390		103		RAYBURN #1	BIG POND	22.3	KERR-MCGEE CORP
-HIGHLANDS GOODALL & GREER INC				RECEIVED:	07/14/82	JA: OK			
8243945	17666	3507323211		102-4		HOEHNER #1		0.0	PHILLIPS PETROLEU
-HOLDEN ENERGY CORP				RECEIVED:	07/19/82	JA: OK			
8244099	17557	3501900000		102-4		REED 27-3	SOUTHEAST JOINER CITY	0.0	AMINOIL USA INC
8244109	17556	3501900000		102-4		REED 27-4	SOUTHEAST JOINER CITY	0.0	AMINOIL USA INC
-HPC INC				RECEIVED:	07/16/82	JA: OK			
8244003	15379	3503920523		103		CRALL #2	THOMAS	45.4	TRANSOK PIPE LINE
-J L THOMAS ENGINEERING INC				RECEIVED:	07/14/82	JA: OK			
8243967	13817	3507323133		103		SIMUNEK #1	SOONER TREND	150.0	EXXON U S A
-JOHN T RIETZ				RECEIVED:	07/19/82	JA: OK			
8244114	12775	3508321555		102-2		DONNA #1	NW EVANSILLE	0.0	WILSON GAS PROCES
-JONES & PELLOW OIL CO				RECEIVED:	07/15/82	JA: OK			
8243989	14674	3508700000		108		BAKER B #1	FLINT CREEK	2.0	SUN PRODUCTION CO
8244000	14682	3508700000		108		DAVIS #1	DIBBLE	14.0	SUN PRODUCTION CO
8243992	14678	3504520243		108		FIRESTONE UNIT #1	NORTH SALON	8.0	NORTHERN NATURAL
8243993	14677	3508700000		108		LUTTRELL #1	CRINER	7.0	SUN PRODUCTION CO
8243988	14675	3508700000		108		MASTERSON #1	FLINT CREEK	5.0	SUN PRODUCTION CO
8243998	14686	3508700000		108		MCGREW B #1	DIBBLE	7.0	SUN PRODUCTION CO
8243999	14683	3508700000		108		OWENS B #1	CRINER	2.0	SUN PRODUCTION CO
8244001	14681	3508700000		108		PROCTOR #1	DIBBLE	13.0	SUN PRODUCTION CO
8243994	14676	3508700000		108		RAMSEY B #1	DIBBLE	12.0	SUN PRODUCTION CO
8243981	14673	3508700000		108		RAMSEY C #1	DIBBLE	13.0	SUN PRODUCTION CO
-JONES & PELLOW OIL CO				RECEIVED:	07/16/82	JA: OK			
8244021	15427	3507321998		103		SCHROEDER 25-2	SOONER TREND	24.0	CONOCO INC
-JONES & PELLOW OIL CO				RECEIVED:	07/19/82	JA: OK			
8244070	15426	3507321998		103		SCHROEDER 25-1	SOONER TREND	30.0	CONOCO INC
-K & A SERVICING INC				RECEIVED:	07/19/82	JA: OK			
8244090	13200	3514700000		102-2		GARRETT #1		2400.0	CITIES SERVICE GA
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	07/15/82	JA: OK			
8243984	15273	3504520919		103		BERRYMAN #2-30	SOUTHEAST ARNETT	150.0	
8243986	15274	3500320799		103		KERNS #2	SOUTHEAST ALINE	50.0	UNION TEXAS PETRO
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	07/19/82	JA: OK			
8244080	16587	3504521036		102-4	103	HUTCHINSON #1	S E HARMON	300.0	PRODUCERS GAS CO
8244088	14909	3504321290		102-4	103	PALMER #1	WATONGA TREND	300.0	TRANSOK PIPELINE
-L G WILLIAMS OIL COMPANY INC				RECEIVED:	07/12/82	JA: OK			
8243923	14784	3501720875		108		HURST #13-1	UNION CITY	0.0	TRANSOK PIPE LINE
-L O WARD				RECEIVED:	07/15/82	JA: OK			
8243971	15322	3504722766		103		BEASLEY #2	NE ENID	180.0	CHAMPLIN PETROLEU
-LADD PETROLEUM CORPORATION				RECEIVED:	07/19/82	JA: OK			
8244079	00575	3504731754		108-ER		HUTCHESON #1		0.0	CHAMPLIN PETROLEU
8244075	00595	3504731776		108-ER		ROGGAW #1		0.0	CHAMPLIN PETROLEU
8244119	00579	3504731787		108-ER		SLOUP #1		0.0	CHAMPLIN PETROLEU
-LANCER ENERGY CORP				RECEIVED:	07/19/82	JA: OK			
8244107	16366	3510920506		102-4		BOOHER #1		55.0	
-LANGFORD ENERGY INC				RECEIVED:	07/19/82	JA: OK			
8244120	13598	3507322926		103		LILLIBRIDGE #2	SOONER TREND	91.2	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-LEAR PETROLEUM EXPLORATION INC				RECEIVED:	07/19/82	JA: OK			
8244121	19445	3501521284		107-DP		HORN #1-19	WILDCAT	2.0	EL PASO NATURAL G
-LOCATORS OIL & GAS INC				RECEIVED:	07/19/82	JA: OK			
8244108	17549	3508321701		102-4		FLORER #1	S E GUTHRIE	14.6	WESTERN STATES
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	07/15/82	JA: OK			
8243973	15331	3508321580		103		NORWOOD #1	N CRESCENT	100.0	CONOCO INC
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	07/16/82	JA: OK			
8244011	15474	3515120898		108		SCHAUB #1	W ALINE	9.0	MAGIC CIRCLE ENER
8244010	15473	3515121029		108		ZAHORSKY #1	W CARMEN	6.0	MAGIC CIRCLE ENER
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	07/19/82	JA: OK			
8244068	15482	3515120917		108		HARMON #1	W ALINE	6.0	MAGIC CIRCLE ENER
8244097	15476	3500320214		108		LORRAINE #1	RINGWOOD	8.0	MAGIC CIRCLE ENER
8244103	15484	3500320658		108		LOUISE #1	ALINE	6.0	MAGIC CIRCLE ENER
8244098	15475	3515120688		108		MILDRED #1	ALINE	8.0	MAGIC CIRCLE ENER
8244066	15477	3509300000		108		NEWMON #1	OAKDALE	8.0	MAGIC CIRCLE ENER
8244104	15485	3515120903		108		SPENCER #1	W ALINE	9.0	MAGIC CIRCLE ENER
8244106	15487	3515120918		108		STUCK #1	W ALINE	5.0	MAGIC CIRCLE ENER
8244105	15486	3515120979		108		VELEY #3	W CARMEN	8.0	MAGIC CIRCLE ENER
-MICHIGAN WISCONSIN PIPE LINE CO				RECEIVED:	07/14/82	JA: OK			
8243947	17194	3509322198		102-2	103	KLUCKNER #2-26	S E BADO	146.0	PANHANDLE EASTERN
-MILLER EXPLORATION CO				RECEIVED:	07/14/82	JA: OK			
8243949	15321	3508121547		103		RECTOR #1	EAST DAVENPORT	0.0	MERIDIAN ENERGY I
-MORAN EXPLORATION INC				RECEIVED:	07/19/82	JA: OK			
8244071	15184	3510722180		103		BRINKLEY #1	NORTH EL RENO	0.0	PHILLIPS PETROLEU
8244076	15181	3501722142		103		DIVIS #1	SOUTH YUKON	0.0	PHILLIPS PETROLEU
8244073	15183	3501722215		103		SBC #4	EAST YUKON	0.0	PHILLIPS PETROLEU
8244074	15182	3501722041		103		SMRCKA #2	EAST YUKON	0.0	PHILLIPS PETROLEU
8244072	15186	3501702720		103		TRAVIS #1	NORMAN "A"	0.0	SUN GAS CO
-O K C ENERGY CORP				RECEIVED:	07/16/82	JA: OK			
8244005	15387	3513321605		103		CLAYTON #1	CLAYTON	292.0	KANOKLA ENERGY CO
-PAN EASTERN EXPLORATION COMPANY				RECEIVED:	07/16/82	JA: OK			
8244012	15436	3513900000		108		TUCKER #1-1	GUYMON HUGOTON	20.0	PANHANDLE EASTERN
-PAUL WALKER				RECEIVED:	07/12/82	JA: OK			
8243937	17543	3503320400		102-2	103	SCHNEEBURGER #1	HULEN	60.0	ARKANSAS-LOUISIAN
8243938	17544	3503320309		102-2	103	URICE #1	HULEN	74.0	ARKANSAS-LOUISIAN
-PCX CORP				RECEIVED:	07/19/82	JA: OK			
8244122	19695	3501521122		107-DP		DUNN #1	N CEMENT	0.0	EL PASO NATURAL G
8244095	12588	3507322781		103		GENE #2		73.0	PHILLIPS PETROLEU
-PEAK EXPLORATION INC				RECEIVED:	07/19/82	JA: OK			
8244096	12895	3508321767		102-2		KINDSCHI #1	SW ORLANDO	188.0	
-PETRO-ENERGY EXPLORATION INC				RECEIVED:	07/16/82	JA: OK			
8244019	15372	3502920276		103		RIDDLE #1-27	CENTRAHOMA	100.0	BOETTCHER OIL & G
-PETROLEUM RESOURCES CO				RECEIVED:	07/19/82	JA: OK			
8244125	16762	3508321960		102-4		LILLIAN B GRAFF #3	CRESCENT LOVELL	912.0	EASON OIL CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	07/12/82	JA: OK			
8243918	14219	3501721311		108		BOMHOFF "D" #1		0.0	PANHANDLE EASTERN
8243919	14220	3501721587		108		BURNS "A" #1		0.0	OKLAHOMA GAS & EL
8243920	14221	3513700000		108		DOYLE "A" #2		0.0	AMINOIL USA INC
8243925	14807	3501721458		108		HOEBING B #1	NORTH CONCHO	19.0	PANHANDLE EASTERN
8243921	14222	3501721506		108		KUNNEMAN "A" #1		0.0	PANHANDLE EASTERN
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	07/15/82	JA: OK			
8243974	15295	3507323165		103		ANNUSCHAT A #1	S E ALTONA	0.0	ONG WESTERN INC
8243975	15296	3505121184		103		BRANCH B #1	GOLDEN TREND	0.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	07/19/82	JA: OK			
8244086	15358	3504920732		108		ELLITHORPE A #1	GOLDEN TREND	9.0	WARREN PETROLEUM
8244091	13694	3508720616		103		HASSIE "A" #1	BRADLEY GOLDEN TREND	0.0	TRANSOK PIPELINE
8244081	13609	3500700000		108		MAHAFFEY A #1	COMO S-MISSISSIPPI AN	0.0	TRANSWESTERN GAS
8244101	13048	3513900000		108		NIELSEN #1	TEXAS HUGOTON	0.0	PANHANDLE EASTERN
8244102	15441	3513900000		108		TILLA #1		0.0	PANHANDLE EASTERN
-POGO PRODUCING COMPANY				RECEIVED:	07/14/82	JA: OK			
8243943	19715	3514920223		107-DP		JOHNSON STATE #1-15A	S E ELK CITY	255.0	EL PASO NATURAL G
-PROEX ENERGY CORP				RECEIVED:	07/16/82	JA: OK			
8244008	15394	3509300000		103		ECK #13-1		91.3	DELHI GAS PIPELIN
-R & N ASSOCIATES - G M NEUBERT AGT				RECEIVED:	07/12/82	JA: OK			
8243931	15098	3505100000		108		FRITTS #2	BURNS/BEAVER FIELD	5.0	NATURAL GAS OPERA
-R W MONCRIEF INC				RECEIVED:	07/14/82	JA: OK			
8243942	19699	3501500000		107-DP		BROWNEN #1		365.0	TENNESSEE GAS PIP
-RALPH E PLOTNER OIL & GAS INVEST IN				RECEIVED:	07/16/82	JA: OK			
8244007	15389	3501722079		103		ESKEW #1	NORTH YUKON	91.0	PHILLIPS PETROLEU
-RAMBLER OIL CO				RECEIVED:	07/12/82	JA: OK			
8243932	15306	3509322400		103		MARTIN #2-8	S E ORION	0.0	DELHI GAS PIPELIN
-RAMBLER OIL CO				RECEIVED:	07/14/82	JA: OK			
8243951	15140	3509322453		103		THOMPSON 2-21	SW ORION	0.0	DELHI GAS PIPELIN
-RAMBLER OIL CO				RECEIVED:	07/15/82	JA: OK			
8243978	15308	3508121374		103		HALL #1	PRAIRIE GEM	0.0	
8243976	15305	3504921759		103		SMITH #1-22	WILDCAT	0.0	
8243977	15307	3508121536		103		TIPTON #1	SW PRAIRIE GEM	0.0	
-RED EAGLE OIL CO				RECEIVED:	07/15/82	JA: OK			
8243991	15291	3501121557		103		PHAFF #1		511.0	PHILLIPS PETROLEU
-REYNOLDS EXPLORATION CO				RECEIVED:	07/14/82	JA: OK			
8243965	13668	3507322757		103		CLARA #1	SOONER TREND	0.0	CITIES SERVICE CO
8243964	13667	3507322777		103		GARMS #1	SOONER TREND	0.0	CITIES SERVICE CO
8243970	13666	3507322879		103		GLAZIER #1	SOONER TREND	0.0	CITIES SERVICE CO
-REYNOLDS EXPLORATION CO				RECEIVED:	07/19/82	JA: OK			
8244092	13806	3507322966		103		CHRISTIAN #1	SOONER TREND	0.0	CITIES SERVICE CO
8244083	13923	3507322965		103		DUFFY #1	SOONER TREND	0.0	CITIES SERVICE CO
8244089	13922	3507322964		103		FOX #1	SOONER TREND	0.0	CITIES SERVICE CO
8244093	13807	3507322969		103		STUCKI #1	SOONER TREND	0.0	CITIES SERVICE CO
-RICKS EXPLORATION CO				RECEIVED:	07/15/82	JA: OK			
8243996	15282	3507323015		103		BETTY HITT 24A	WEST KINGFISHER	108.0	PHILLIPS PETROLEU
-RICKS EXPLORATION CO				RECEIVED:	07/16/82	JA: OK			
8244018	19748	3505121128		107-DP		FORREST 26A	WILDCAT	447.0	EL PASO NATURAL G
8244020	15373	3515321190		103		JACKIE 28A	WEST SHARON	11.0	PHILLIPS PETROLEU
-RICKS EXPLORATION CO				RECEIVED:	07/19/82	JA: OK			
8244085	15374	3515321215		103		TOMMY 31F	WEST SHARON	2.0	PHILLIPS PETROLEU
8244065	15375	3515321117		103		WALT 28A	W SHARON	13.0	PHILLIPS PETROLEU
-RIMROCK GAS CO				RECEIVED:	07/19/82	JA: OK			
8244111	15148	3505541239		108		MC DONALD #1	SOUTH JESTER	3.0	A & E PIPELINE CO
8244110	15149	3505541237		108		TRAVIS #1	BLOOMINGTON	7.0	A & E PIPELINE CO
-RONALD W SUMMERS				RECEIVED:	07/16/82	JA: OK			
8244009	15395	3510525401		103		GULLEY #1		51.1	FUEL PRODUCTS INC
-SAMEDAN OIL CORPORATION				RECEIVED:	07/12/82	JA: OK			
8243936	15336	3501722053		103		CROWLEY #1	NO NAME	100.0	PHILLIPS PETROLEU
-SAMEDAN OIL CORPORATION				RECEIVED:	07/15/82	JA: OK			
8243982	15248	3501721948		103		SCHWARZ #1	NO NAME	85.0	DELHI GAS PIPELIN
-SAMSON RESOURCES COMPANY				RECEIVED:	07/12/82	JA: OK			

JD NO	DA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8243917	13820	3507720177		108		ROGER UNIT #1	RED OAK	10.5	ARKANSAS LOUISIAN
-SAMSON RESOURCES COMPANY				RECEIVED:	07/19/82	JA: OK			
8244130	19689	3512920774		107-DP		MCCOLGIN #1-21	WEST CHEYENNE	1143.5	EL PASO NATURAL G
-SEARCH DRILLING CO				RECEIVED:	07/19/82	JA: OK			
8244069	15287	3504521019		103		WANGER #1-36	S W FORT SUPPLY	394.0	DELHI GAS PIPELIN
-SHELL OIL CO				RECEIVED:	07/19/82	JA: OK			
8244132	15383	3513700000		108		KEENER #6	SYCAMORE	21.5	MOBIL OIL CORP
8244117	18099	3505121299		102-4		OSBORNE 1-36	TABLER N E	662.0	TENNESSEE GAS PIP
-SHEMEN PRODUCTION INC				RECEIVED:	07/16/82	JA: OK			
8244016	18115	3514321747		102-2		I JOHN 3:22 #2		0.0	M & H GATHERING S
8244017	18116	3514321750		102-2		I JOHN 3:22 #5	I JOHN 3:22	0.0	M & H GATHERING S
8244015	18097	3514321745		102-2		SUMPHERO BETA #1		0.0	M & H GATHERING S
-SILVER LAKE EXPLORATION				RECEIVED:	07/15/82	JA: OK			
8243980	15318	3507122273		103		JOHN COURTNEY #1	NORTH BLACKWELL	36.5	CHASE GATHERING S
-SOUTHWEST EXPLORATION INC				RECEIVED:	07/12/82	JA: OK			
8243916	13654	3501700000		103		AMERICAN FIRST TITLE & TRUST #1	MUKON EAST NE NE SE S	153.0	MOBIL OIL CORP
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	07/12/82	JA: OK			
8243924	14788	3500700000		108		SOUTH BOYD EXT UNIT #4-2	BOYD SOUTH	1.5	PHILLIPS PETROLEU
-SUNRISE EXPLORATION INC				RECEIVED:	07/12/82	JA: OK			
8243915	09968	3503920395		103		MCNEILL #3-12	FAY SOUTH	511.0	TRANSOK PIPE LINE
-TENNECO OIL COMPANY				RECEIVED:	07/19/82	JA: OK			
8244100	14560	3502520497		103		BURKETT #3-10	KEYES	10.0	PANHANDLE EASTERN
-TEXAS OIL & GAS CORP				RECEIVED:	07/14/82	JA: OK			
8243966	13769	3504500000		108		STATE #1	WILDCAT	9.0	NORTHERN NATURAL
-THE GHK COMPANY				RECEIVED:	07/16/82	JA: OK			
8244004	15385	3503920493		103		MCCONNELL 1-34	CANUTE	569.4	
-THE GHK COMPANY				RECEIVED:	07/19/82	JA: OK			
8244123	19771	3500920463		107-DP		JONES 2-35	N ELK CITY	328.5	EL PASO NATURAL G
-TOWNER PETROLEUM CO				RECEIVED:	07/19/82	JA: OK			
8244112	13360	3501721716		102-2		ENGLAND #22-1		0.0	PHILLIPS PETROLEU
-TXO PRODUCTION CORP				RECEIVED:	07/14/82	JA: OK			
8243946	17657	3512920730		102-4		KENDALL "B" #1	N W ROLL	263.0	DELHI GAS PIPELIN
-TXO PRODUCTION CORP				RECEIVED:	07/19/82	JA: OK			
8244127	15246	3500320548		108		HUSTED #1	WILDCAT	9.0	DELHI GAS PIPELIN
8244087	15245	3515120750		108		JULIAN "A" #1	AVARD	5.0	DELHI GAS PIPELIN
-VANDERBILT RESOURCES CORPORATION				RECEIVED:	07/19/82	JA: OK			
8244118	12240	3515321162		103		KELSO 2-25	N W QUINLAN	540.0	MICHIGAN WISCONSI
-W E LEE JR				RECEIVED:	07/19/82	JA: OK			
8244124	15514	3511100000		108		MORRIS #1-C	BEGGS	0.0	PHILLIPS PETROLEU
-WELDON BRUCE				RECEIVED:	07/12/82	JA: OK			
8243939	17545	3503320516		102-2	103	URICE #1	N E WALTERS	36.0	ARKANSAS-LOUISIAN
8243940	17546	3503320517		102-2	103	URICE #2	N E WALTERS	25.0	ARKANSAS-LOUISIAN
8243941	17547	3503320567		102-2	103	WHITE #1	N E WALTERS	40.0	ARKANSAS-LOUISIAN
-WESSELY ENERGY CORPORATION				RECEIVED:	07/19/82	JA: OK			
8244113	15437	3504921765		103		MAYS 2-30	W MAYSVILLE	29.0	WARREN PETROLEUM

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WEST VIRGINIA DEPARTMENT OF MINES

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-ALLEGHENY & WESTERN ENERGY CORP				RECEIVED:	07/20/82	JA: WV			
8244047		4708703476		107-DV		BLACKWELL #1	WALTON DISTRICT	18.0	
8244053		4708703476		103		BLACKWELL #1	WALTON DISTRICT	18.0	
8244048		4708703473		107-DV		FIELDS #2	WALTON DISTRICT	18.0	ROARING FORK GAS
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	07/20/82	JA: WV			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8244035		4708300531		103		A - 1050	ROARING CREEK DISTRIC	6.0	COLUMBIA GAS TRAN
8244034		4708300532		103		A- 1028	MIDDLE FORK DISTRICT	6.0	COLUMBIA GAS TRAN
8244039		4709702315		103		A- 1030	WASHINGTON DISTRICT	6.0	COLUMBIA GAS TRAN
8244041		4708300534		103		A- 1075	MIDDLE FORK DISTRICT	6.0	COLUMBIA GAS TRAN
8244037		47[illegible]4103118		103		A- 1093	COURTHOUSE DISTRICT	6.0	CONSOLIDATED GAS
8244040		4708300535		103		A- 1097	MIDDLE FORK DISTRICT	6.0	COLUMBIA GAS TRAN
8244036		4704900704		103		A- 914	UNION DISTRICT	6.0	CONSOLIDATED GAS
-ASHLAND EXPLORATION INC		RECEIVED: 07/20/82 JA: WV							
8244044		4703901714		108		EASTERN GAS & FUEL #12 - 031130	PAINT CREEK	6.0	COLUMBIA GAS TRAN
-BRAXTON OIL AND GAS CORP		RECEIVED: 07/19/82 JA: WV							
8244025		4704102926		108		WATER WELL CHARLIE #1	VANDALIA	10.0	CONSOLIDATED GAS
-CNG PRODUCING COMPANY		RECEIVED: 07/19/82 JA: WV							
8244027		4703302612		103		GOLDIE C BARTLETT WN-AA23	CLAY	2.5	CONSOLIDATED GAS
-DORAN & ASSOCIATES INC		RECEIVED: 07/19/82 JA: WV							
8244024		4703301984		108		J DENNISON #2 K-L-225	TENMILE DIST	0.1	CONSOLIDATED GAS
-DORAN & ASSOCIATES INC		RECEIVED: 07/20/82 JA: WV							
8244043		4703302641		103		J DEMARCO #1 KJ-29	CLAY DISTRICT	30.0	CONSOLIDATED GAS
8244042		4703302365		103		MCDONALD-DEEMS #2 KT-17	CLAY DISTRICT	30.0	CONSOLIDATED GAS
-FERRELL L PRIOR		RECEIVED: 07/20/82 JA: WV							
8244038		4707301026		107-DV		TOM HAMMETT #4	SHUTLZ	0.0	CONSOLIDATED GAS
-FRANKLIN ADKINS		RECEIVED: 07/19/82 JA: WV							
8244031		4709921743		103		DAVID JERRELL #1	LINCOLN	12.5	COLUMBIA GAS TRAN
-HYDROCARBON ENERGIES INC		RECEIVED: 07/19/82 JA: WV							
8244026		4703300252		108		A E ROLLINS #1 (HE-1)	ELK DISTRICT	6.0	CONSOLIDATED GAS
-J & J ENTERPRISES INC		RECEIVED: 07/20/82 JA: WV							
8244051		4700101465		103		B-398	PLEASANT	0.0	CONSOLIDATED GAS
8244052		4704102959		103		B-400	HACKERS CREEK	0.0	CONSOLIDATED GAS
8244055		4701702704		107-DV		J-124	WEST UNION	0.0	COLUMBIA GAS TRAN
8244046		4701702816		107-DV		J-292	CENTRAL	0.0	COLUMBIA GAS TRAN
8244056		4701702813		107-DV		J-300	WEST UNION	0.0	COLUMBIA GAS TRAN
8244049		4701702919		103		J-425	WEST UNION	0.0	COLUMBIA GAS TRAN
8244050		4701702921		103		J-427	WEST UNION	0.0	COLUMBIA GAS TRAN
8244054		4700101543		107-DV		J-492	UNION	0.0	COLUMBIA GAS TRAN
8244032		4709500955		103		J-581	CENTERVILLE	0.0	CONSOLIDATED GAS
8244033		4709500956		103		J-582	CENTERVILLE	0.0	CONSOLIDATED GAS
-SAMPSON & HICKS		RECEIVED: 07/19/82 JA: WV							
8244023		4701302856		108		KELLEY #2	WASHINGTON	10.0	CONSOLIDATED GAS
-STERLING DRILLING & PROD CO INC		RECEIVED: 07/19/82 JA: WV							
8244028		4701501610		108		FOSTER #1 SDP #105	BUFFALO DISTRICT	3.2	EQUITABLE GAS CO
8244030		4708703222		108		GARRETT 170 SDP #170	GEARY DISTRICT	1.9	COLUMBIA GAS TRAN
8244029		4708703220		108		MCCLAIN 161 SDP #161	GEARY DISTRICT	7.2	COLUMBIA GAS TRAN
-UNITED PETRO LTD		RECEIVED: 07/20/82 JA: WV							
8244045		4710500869		108		OLIN NUZUM #1-A	OAKFIELD	3.0	CABOT CORP

BILLING CODE 6717-01-C

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22395 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-443-000]

El Paso Natural Gas Co.; Application

August 6, 1982.

Take notice that on July 28, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82-443-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a tap and valve assembly and the delivery of quantities of natural gas to Southwest Gas Corporation (Southwest) in Pima County, Arizona, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In order to provide service to Southwest, Applicant proposes to provide an additional delivery point to Southwest on Applicant's 10¾-inch pipeline between the City Gate West meter station and the City Gate Two regulating station. The proposed delivery point would consist of a 2⅜-inch O.D. tap and valve assembly with appurtenances. Applicant states that Southwest proposes to install and operate a compressed natural gas (CNG) plant in Tucson, Arizona to compress natural gas for use as motor vehicle fuel. It is stated that Southwest intends to construct the plant adjacent to Applicant's existing 10¾-inch Tucson-Phoenix pipeline because it will require a delivery pressure ranging between 200 and 250 psig.

Applicant states that the natural gas delivered by it to Southwest through the proposed delivery point would be measured and sold to Southwest by Applicant at its existing City Gas East meter station or Pima Pork meter station. Applicant states that no increase in deliveries of gas to Southwest are contemplated in the instant proposal.

Applicant estimates the cost of the facilities to be $1,600 which would be financed with funds presently on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10.). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-23380 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6175-002]

Lester Kelley, Vernon Ravenscroft and Helen Chenoweth; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

August 11, 1982.

Take notice that on June 21, 1982, Lester Kelley, Vernon Ravenscroft and Helen Chenoweth (Applicants) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6175 would be located on Riordan Creek, near Yellow Pines, in Valley County, Idaho. The proposed project would affect U.S. lands within Boise National Forest. Correspondence with the Applicant should be directed to: Mrs. Helen Chenoweth, Consulting Associates, Inc., P.O. Box 893, Boise, Idaho 83701.

Project Description.—The proposed project would consist of: (1) A 4-foot-high diversion structure; (2) a 34-inch-diameter steel penstock; (3) a powerhouse with a total installed capacity of 2,950 kW; and (4) a 0.25-mile-long, 34.5-kV transmission line interconnecting with an existing Idaho Power Company transmission line. The average annual energy output is estimated to be 9.092 million kWh.

Purpose of Exemption.—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments.—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application.—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before October 4, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license

application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 4, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22377 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6155-000]

City of San Bernardino-Municipal Water Department; Application for Exemption of Small Conduit Hydroelectric Facility

August 11, 1982.

Take notice that on April 1, 1982, City of San Bernardino Municipal Water Department (Applicant) filed an application, under Section 30 of the Federal Power Act (Act) (16 U.S.C. Section 823(a)), for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed San Bernardino Municipal Water Department Project (FERC Project No. 6155) would be located in its closed water supply conduits in San Bernardino County, California. Correspondence with the Applicant should be directed to: Mr. John G. Egan, John Egan and Associates, Inc., 3600 Orange Show Lane, San Bernardino, California 94208.

Purpose of Project—The proposed project would produce 1.99 million kWh annually which would be utilized in operation of Applicant's water supply system.

Project Description—The proposed project would consist of three hydroelectric facilities on existing closed conduits to three domestic reservoirs presently under construction as described below:

(A) *2100 Site Facility* consisting of an in-line powerhouse with a total installed capacity of 54 kW located in an existing 16-inch-diameter domestic water pipeline whose inlet is located in Carjein Creek.

(B) *1895 Site Facility* consisting of an in-line powerhouse with a total installed capacity of 59 kW located in an existing 16-inch-diameter domestic water pipeline.

(C) *1720 Site Facility* consisting of an in-line powerhouse with a total installed capacity of 554 kW located in an existing 24-inch-diameter domestic water pipeline.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 30 of the Act, to submit within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22378 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6475-000]

McDowell Forest Products, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

August 11, 1982.

Take notice that on June 30, 1982, McDowell Forest Products, Inc. (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6475 would be located on Camp Creek near Pulga in Butte County, California. The proposed project would affect the U.S. lands within Plumas National, Forest. Correspondence with the Applicant should be directed to: Mr. Bruce McDowell Forest Products, Inc.,

P.O. Box 131, Taylorsville, California 95983.

Project Description—The proposed project would consist of: (1) An intake consisting of a 30-inch-diameter perforated pipe; (2) a 30-inch-diameter, 3,000-foot-long steel pipe; (3) a powerhouse with a total installed capacity of 1,200 kW; and (4) an 800-foot-long, 12-kV transmission line interconnecting with an existing PG&E transmission line. The average annual energy output would be 5.184 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance f this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before September 30, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22381 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-442-000]

Mitco Pipeline Co.; Application

August 9, 1982.

Take notice that on July 27, 1982, Mitco Pipeline Company (Applicant), P.O. Box 4000, The Woodlands, Texas 77380, filed in Docket No. CP82-442-000 an application pursuant to Section 7 of the Natural Gas Act and Supart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

An person desiring to be heard or to make any protest with reference to said application should on or before August 31, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval to abandon are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22382 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-447-000]

Natural Gas Pipeline Co. of America; Application

August 6, 1982.

Take notice that on July 29, 1982, Natural Gas Pipeline Company of

America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-447-000 an aplication pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas and the construction and operation of necessary facilities in Washita County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it owns and operates a 6-inch pipeline extending from the South West Burns Flat field in Washita County, Oklahoma to Applicant's 26-inch Oklahoma extension, through which it transports gas for itself and other interstate pipelines. Applicant further states that because several producers in the South West Burns Flat field have retained processing rights under their gas sales contracts Dome Petroleum Company (Dome) is presently constructing a processing plant along the 6-inch pipeline about one mile upstream from its interconnection with the Oklahoma extension. Applicant proposes to construct facilities to connect its 6-inch pipeline to Dome's processing plant. To accomplish this, Applicant proposes to install minor facilities consisting of two side taps, approximately 100 feet of 10-inch lateral and appropriate valves, flanges and tees.

It is asserted that Applicant has also been experiencing corrosion and operating problems on the 6-inch pipeline which would be alleviated by the processing plant.

Applicant estimates the cost of the facilities to be $70,000 to be financed by funds on hand. It is also stated that subject to final agreement between Applicant and Dome, the cost of such facilities may be reimbursed by Dome.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22383 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-327-001]

Northern Natural Gas Co., Division of InterNorth, Inc., Amendment

August 9, 1982.

Take notice that on June 11, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-327-001 an amendment to its application filed in Docket No. CP81-327-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect revised projections of Northern's peak day and seasonal market supply balances through the summer of 1992, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Northern proposes the following revisions from the information contained in its original filing:

1. The initial receipt of Alaskan gas would be delayed from 1987 to 1989.

2. Adjustments would be made to lower 48 supplies to reflect updated estimates of availability from presently connected supplies and future acquisitions.

3. Extensions of both the Consolidated (TransCanada) and Northwest Alaska (Pan Alberta) Canadian imports would be included in the market supply balances.

4. Volumes from the Arctic Pilot Project which is presently awaiting approval by the National Energy Board (NEB) would be included.

5. Revisions in Northern's timetable for development of additional storage would be included. It is stated that Northern originally projected commencing injections into new storage in 1988 and withdrawals in 1989 but that due to the various changes in supplies and the need for operational flexibility to balance seasonal production, Northern now projects a need for additional storage to be available during the 1984-1985 heating season.

6. Revisions in Northern's market estimates to include the firm portion of Northern's off-system sale to Allied Chemical Company (Allied) would be included.

It is asserted that pursuant to order issued April 9, 1982, in Docket No. CP82-33, Northern is authorized, *inter alia*, to make firm sales of 50,000 Mcf of gas per day with a 75 percent minimum take obligation on behalf of Allied for the summer periods (April 1 through October 31) of each of the years 1982, 1983, and 1984.

An person desiring to be heard or to make any protest with reference to petition to amend should on or before August 31, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22384 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-33-000]

Owens-Corning Fiberglass Corp.; Application for Adjustment and Request for Interim Relief

Issued: August 9, 1982.

Take notice that on August 2, 1982, Owens-Corning Fiberglas Corporation (Owens-Corning), Fiberglas Tower-Arcade, Toledo, Ohio 43659 filed with the Federal Energy Regulatory Commission (Commission) an application for adjustment under section

502(c) of the Natural Gas Policy Act of 1978 and for interim relief pursuant to § 1.41(m) of the Commission's Rules of Practice and Procedure, in which Owens-Corning seeks relief from § 282.203(b) of the Commission's regulations for its facility located in North Kansas City, Missouri.

Owens-Corning states that there have been several significant and permanent changes in operating conditions at this facility which have and which will have the effect of reducing natural gas boiler fuel usage to below 300 Mcf per day. According to Owens-Corning, among these changes is the installation of a new incinerator/boiler. Owens-Corning states that the new boiler lacks the capability of using more than 300 Mcf of natural gas per day. Owens-Corning states that it seeks an adjustment because its past pattern of gas usage is unrepresentative of its future requirements.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in the adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before September 1, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22385 Filed 8-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5956-000]

Potter Instrument Co., Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

August 11, 1982.

Take notice that on February 9, 1982, Potter Instrument Company, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended),* for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 5956 would be located on the Cocheco River in Strafford County, New Hampshire. Correspondence with the Applicant should be directed to: Samuel A. Alexander, President, Potter Instrument Company, Inc., 10 Main Street, Gonic, New Hampshire 03867.

Project Description.—The proposed project would consist of: (1) The concrete gravity Upper Gonic Dam 19 feet high and 155 feet long; (2) a reservoir having a storage capacity of 60 acre-feet, a surface area of 18 acres, and a normal water surface elevation of 169.9 feet m.s.l.; (3) a new intake; (4) a new 6-foot diameter penstock 1370 feet long to a; (5) new powerhouse below the Lower Dam having one unit with a capacity of 450-kW; (6) a new 34.-kV transmission line 1100 feet long; and (7) appurtenant facilities.

The Applicant has an option to purchase the dams from Gonic Realty Trust. The Applicant estimates the average annual energy would be 2,957 MWh. All project power would be sold to the Public Service Company of New Hampshire.

Purpose of Exemption.—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments.—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of New Hampshire Fish and Game Department are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications.—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before September 30, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 30, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22386 Filed 8-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6415-000]

Slush Cup Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

August 11, 1982.

Take notice that on June 7, 1982, Slush Cup Company (Applicant) filed an application under Section 408 of the

Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6415 would be located on Bagley Creek within Mt. Baker-Snoqualmie National Forest in Whatcom County, Washington. Correspondence with the Applicant should be directed to: Mr. Bruce Henry, P.O. Box 491, Glacier, Washington 98244.

Project Description.—The proposed project would consist of: (1) A 12-foot-high, 60-foot-long existing Mt. Baker Recreation Company's Bagley Lake Dam; (2) Bagley Lake impoundment with a gross storage capacity of 1,977 acre-feet; (3) a 24-inch-diameter, 7,800-foot-long penstock; (4) a powerhouse containing a generating unit with a rated capacity of 3 MW; and (5) appurtenant facilities. The Applicant estimates a 12.5 GWh average annual energy production.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project. Power would be sold to local utilities.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Washington State Department of Fisheries and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application.—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before September 30, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (b) (1980).

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22387 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-10-002, (PGA82-2, 2a, and 2b, and IPR82-3)]

Tennessee Natural Gas Lines, Inc.; PGA Tariff Filing

August 9, 1982.

Take notice that on August 4, 1982, Tennessee Natural Gas Lines, Inc. ("TNGL"), tendered for filing a revision of its PGA rate change filing accepted by letter order dated June 30, 1982 to be effective July 1, 1982. The instant filing consists of the following sheet to its FERC Gas Tariff, First Revised Volume No. 1: Second Substitute Thirty-Ninth Revised Sheet No. PGA-1.

TNGL requests that such tariff sheet be allowed to become effective on July 1, 1982.

TNGL states that its instant filing is occasioned by the fact that, after acceptance of its earlier filing, its sole supplier, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. ("TGP"), filed reduced rates as the result of a settlement approved by the Commission on June 23, 1982. It states that the instant filing reflects the lower subsequently filed rates of TGP.

TNGL states that copies of the filing were served upon its jurisdictional customer and the interested state regulatory commission, and are available for public inspection at TNGL's offices in Nashville, Tennessee.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-22368 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-109, et al.]

Texas Eastern Transmission Corp.; Settlement Conference

August 11, 1982.

Take notice that on August 26, 1982 at 10:00 a.m., and on August 27, 1982, at

10:00 a.m., settlement conferences of all interested parties will be convened concerning the issues involved in the above-referenced proceeding. All parties should come prepared to discuss all issues in this proceeding. The conferences will be held in a room to be designated for such purposes at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22391 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6533-000]

The Town of Skykomish; Application for Preliminary Permit

August 11, 1982.

Take notice that the Town of Skykomish (Applicant) filed on July 16, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6533 to be known as the Lowe Creek Hydro Power Project located on Lowe Creek, within the Snoqualmie-Mt. Baker National Forest in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Donald J. White, Agent to the Town of Skykomish, #600 CSB Tower, 50 South Main Street, Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) 36-inch-wide concrete multiple diversion structures with negligible storage; (2) a 6,000-foot-long, 18-inch-diameter diversion pipeline; (3) a powerhouse with an installed capacity of 1,720 kW; and (4) a 1-mile-long, 115-kV transmission line. The Applicant estimates that the average annual energy production would be 7.57 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct the technical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $100,000.

Competing Applications—This application was filed as a competing application to Lawrence J. McMurtrey's application for Project No. 6170 filed on April 6, 1982. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 20, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22392 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6536-000]

The Town of Skykomish; Application for Preliminary Permit

August 11, 1982.

Take notice that the Town of Skykomish (Applicant) filed on July 16, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6534 to be known as the San Juan Hydropower Project located on San Juan Creek within the Snoqualmie–Mt. Baker National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Donald J. White, Agent to the Town of Skykomish, #600 CSB Tower, 50 South Main Street, Salt Lake City, Utah 84144.

Project Description.—The proposed project would consist of: (1) 36-inch-wide concrete multiple diversion structures with negligible storage; (2) a 7,000-foot-long, 18-inch-diameter diversion pipeline; (3) a powerhouse with an installed capacity of 2,240 kW; and (4) a 12-mile-long, 115-kV transmission line. The Applicant estimates that the average annual energy production would be 9.8 GWh.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a perliminary permit for a period of 24 months during which it would conduct the technical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $100,000.

Competing Applications.—This application was filed as a competing application to Lawrence J. McMurtrey's application for Project No. 6171 filed on April 6, 1982. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption applicaton, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application.

(A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 20, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22393 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6219-000]

Warren Hydro Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

August 11, 1982.

Take notice that on April 16, 1982, Warren Hydro Company (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6219 would be located on the Mad River in Washington County, Vermont. Correspondence with the Applicant should be directed to: Mr. L. Macrae Rood, Warren Hydro Company, Box 142, Warren, Vermont 05674.

Project Description.—The proposed project would be located at the site of a former hydromechanical sawmill and would consist of: (1) An 80-foot-long, 18-foot-high, existing timber crib dam owned by the Applicant, with 24-inch-high flashboards; (2) an existing 2.5-acre pond at a surface elevation of 896 feet M.S.L.; (3) repair of an existing 30-foot-long intake channel; (4) an existing 60-foot-long, 4-foot-diameter steel penstock; (5) a proposed powerhouse containing two turbine/generator units each with a rated capacity of 40 kW, operating under a head of 20 feet; (6) a proposed 15-foot-long tailrace; (7) upgrading, to three phase, an existing 500-foot-long single phase transmission line; and (8) appurtenant facilities. The average annual generation of 272,000 kWh would be sold to the Green Mountain Power Corporation.

Purpose of Exemption.—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments.—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Vermont Agency of Environmental Conservation are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications.—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before September 30, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 30, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22389 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-441-000]

Western Gas Interstate Co.; Application

August 9, 1982.

Take notice that on July 26, 1982, Western Gas Interstate Company (Applicant), 1800 First International Building, Dallas, Texas 75270, filed in Docket No. CP82-441-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 31, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval to abandon are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22390 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2146-035]

Alabama Power Co., Application for Approval of Amendment to Exhibit R

August 11, 1982.

Take notice that Alabama Power Company, Licensee for the Coosa River Project, FERC No. 2146, on May 4, 1982, filed an application for approval of Amendment to Exhibit R. The application was filed in response to the Commission's Order issued on March 3, 1981, which required the Licensee to conduct certain additional studies and to provide construction schedules for the project recreational facilities.

Correspondence with the Licensee should be directed to: Mr. F. L. Clayton, Jr., Senior Vice President, Alabama Power Company, P.O. Box 2641, Birmingham, Alabama 35291.

The Coosa River Project comprises five reservoirs: Walter Bouldin, Lay, Logan Martin, H. Neeley Henry, and Weiss. These reservoirs lie within the Coosa River Basin, extending from the river's head near Rome, Georgia, to near its confluence with the Tallapoose River some 10 miles north of Montgomery, Alabama. These waters are located principally in Cherokee, Etowah, Calhoun, St. Clair, Talladega, Shelby, Chilton, Coosa and Elmore Counties, Alabama, with a small portion extending into Floyd County, Georgia.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. Copies of the application may be obtained directly from the Licensee. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22411 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-411-000; Docket Nos. CP65-217 and CP69-41; Docket Nos. CP60-94, CP66-20, CP69-222 (Phase II), CP70-185 and CP74-318]

Algonquin Gas Transmission Co. and Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Application and Petition to Amend

August 11, 1982.

Take notice that on July 9, 1982, Algonquin Gas Transmission Company (Algonquin), 1284 Soldiers Field Road, Boston, Massachusetts 02135, and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP82-411-000, *et al.* a joint application and petition to amend pursuant to Section 7(c) of the Natural Gas Act for certificate authorization to revise and consolidate existing gas exchange service contracts under one new contract and for modification of a meter station, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicants seek authorization to cancel three existing gas service contracts between Algonquin and Tennessee which provide for exchange services and to

revise and consolidate such exchange services under one new gas service contract. Applicants assert that by order issued November 15, 1957, in Docket No. G–13146, Algonquin was authorized pursuant to a contract dated November 1, 1964, to deliver to Connecticut Gas Company (Connecticut Gas) for the account of Tennessee such daily quantities of natural gas as Connecticut Gas requires up to 408 Mcf of natural gas per hour. Such deliveries are made by Algonquin to Connecticut Gas' meter station in Danbury, Connecticut, which meter station is owned by Connecticut Gas and leased to Algonquin for operation and maintenance, it is explained.

Applicants assert that by order issued April 15, 1959, in Docket No G–17409, Tennessee was authorized pursuant to a contract dated September 9, 1958, to deliver to Algonquin for sale to Connecticut Gas such daily quantities of natural gas as Connecticut Gas requires up to 408 Mcf of natural gas per hour. Such deliveries are made to Algonquin's lateral system 0 near Thompsonville, Connecticut, it is asserted.

Applicants assert that by order issued May 12, 1965, in Docket No. CP65–217, Tennessee was authorized pursuant to a contract dated November 11, 1964, to deliver to The Southern Connecticut Gas Company (Southern Connecticut) for the account of Algonquin such daily quantities of natural gas as Southern Connecticut requires up to 204 Mcf of natural gas per hour. Such deliveries are made to Southern Connecticut's meter station in Milford, Connecticut, it is asserted.

Applicants state that by its letter to Algonquin dated April 21, 1981, Connecticut Gas has requested that the maximum hourly quantities which may be delivered to it in Danbury by Algonquin for the account of Tennessee and pursuant to Tennessee's Rate Schedule CD–6 and the terms and conditions of an associated gas sales contract between Connecticut Gas and Tennessee dated January 23, 1980, be increased. Applicants further state that by its letter to Tennessee dated July 23, 1979, Southern Connecticut has requested that the maximum hourly quantities which may be delivered to it in Milford by Tennessee for the account of Algonquin and pursuant to the Rate Schedule F–1 be increased.

It is explained that in order to simplify the present gas exchange agreements Algonquin and Tennessee proposed to combine the tree existing gas service contracts into a single new gas service contract. It is asserted by Applicants that the foregoing agreement between them would necessitate that Algonquin revise its contractual agreements with Southern Connecticut and that Tennessee revise its contractual agreements with Connecticut Gas. It is stated, therefore, that Commission authorization to implement such revised contractual obligations is requested, as follows:

Algonquin

Applicants state that in the absence of an incremental gas supply, Algonquin maintains the total of each customer's maximum daily delivery obligations at the presently authorized levels. Within this constraint and within the operating capabilities of its transmission system Algonquin states it is willing to rearrange the quantities it delivers to Southern Connecticut among that customer's delivery points. It is asserted that Connecticut has agreed to reduce Algonquin's present maximum daily delivery obligation at Southern Connecticut's meter station in North Haven, Connecticut, by 102 Mcf of gas per hour thus offsetting the increase in quantities Southern Connecticut would receive from Tennessee for the account of Algonquin in Milford. It is further asserted that this reduction in Algonquin's delivery obligation to Southern Connecticut at the North Haven delivery point would also offset the increase in quantities Algonquin would be obligated to deliver to Connecticut Gas for the account of Tennessee in Danbury. Algonquin and Southern Connecticut have entered into a Precedent Agreement dated February 22, 1982, which provides for execution of a new F–1 service agreement providing for the above-mentioned rearrangement between the Milford and North Haven delivery points of Algonquin's existing maximum daily delivery obligations to Southern Connecticut, it is asserted.

By this application, Algonquin requests that the Commission amend the May 12, 1965, order in Docket No CP65–217, which authorized service to Southern Connecticut at Milford at the present level of 204 Mcf per hour and the March 4, 1969, order in Docket No. CP69–41 which authorized Algonquin's present level of sales service to Southern Connecticut at the maximum daily (and hourly) delivery obligations for delivery points as reflected in Algonquin's and Southern Connecticut's present F–1 service agreement so as to authorize Algonquin to implement revised maximum daily (and hourly) delivery obligations increasing the maximum hourly rate at Milford by 102 Mcf per hour and decreasing deliveries at North Haven by an equivalent amount.

Tennessee

In conjunction with Connecticut Gas' request of Algonquin to revise the November 1, 1964, gas service contract between Algonquin and Tennessee which contract provides that Algonquin deliver certain daily quantities of gas to Connecticut Gas at Danbury for the account of Tennessee. Tennessee and Connecticut Gas have entered into a Precedent Agreement dated March 26, 1982, which provides, among other things, for execution of a new gas sales contract providing for revised daily volume limits by delivery point, it is explained.

It is explained that such revised service and the new gas sales contract would not permit Connecticut Gas to receive any more natural gas from Tennessee than Connecticut Gas is now authorized to receive under its present gas sales contract and the proposed changes would not increase or decrease the annual volumetric limitation imposed on Tennessee's system. Furthermore, such changes would not alter the end use profile used by Tennessee in determining the level of curtailment to such company, it is asserted. Hence, there would be no impact on Tennessee's other customers as a result of the changes in service herein, it is explained.

By this application, Tennessee requests that the order issued December 28, 1976, as amended on January 23, 1980, in Docket Nos. CP60–94, *et al.*, be amended to authorize the rendition of natural gas service to Connecticut Gas under a new gas sales contract providing for revised daily volume limits by delivery point.

It is stated that Algonquin has determined that the Danbury meter station must be modified to permit the increased level of deliveries proposed to be made by Algonquin for the account of Tennessee. It is estimated that the cost of modifying the Danbury meter station is $134,250, which cost would be borne by Connecticut Gas.

Any person desiring to be heard or to make any protest with reference to said application and petition to amend should on or before September 3, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this

application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22412 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL82-1-000]

APS-PJM Interconnection Agreement; Compliance Filing

August 11, 1982.

Take notice that on July 29, 1982, Delmarva Power and Light Company filed a refund compliance report pursuant to the Commission's order of July 9, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 24, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22427 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1520-000]

John H. Austin, Jr.; Application

August 11, 1982.

Take notice that on July 30, 1982, John H. Austin, Jr. filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President, Philadelphia Electric Company
Director, Philadelphia Electric Power Company
Director, The Susquehanna Power Company
Director, The Susquehanna Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rule of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22397 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6274-001]

Sterling Beckwith; Exemption From Licensing

August 10, 1982.

A notice of exemption from licensing of a small hydroelectric project known as Paradise Irrigation District Project C, Project No. 6274, was filed on July 7, 1982, by Sterling Beckwith. The proposed hydroelectric project would have an installed capacity of 20 kW and would be located on Paradise Irrigation District's supply line, in Butte County, California.

Pursuant to §§ 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in Section 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of August 6, 1982.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 82-22428 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6144-001]

Castle Power Association; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

August 11, 1982.

Take notice that on May 17, 1982, Castle Power Association (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6144 would be located on Whisky Creek, within the Sierra National Forest, near North Fork, in Madera County, California. Correspondence with the Applicant should be directed to: Mr. Russell E. Willis, Castle Power Association, P.O. Box 746, North Fork, California 93643.

Project Description—The proposed project would consist of: (1) A 3-foot-high, 7-foot-long concrete diversion structure; (2) a 1,440-foot-long, 24-inch-diameter steel penstock; (3) a powerhouse containing three generating units with a total installed capacity of 165 kW; and (4) a 1,100-foot-long, 11-kV transmission line from the powerhouse to an existing Pacific Gas & Electric Company transmission line. The Applicant estimates that the average annual energy production would be 0.7 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before October 4, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely

notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 4, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22429 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6472-000]

Cogeneration, Inc.; Application for Exemption of Small Conduit Hydroelectric Facility

August 11, 1982.

Take notice that on June 28, 1982, Cogeneration, Inc. (Applicant) filed an application, under Section 30 of the Federal Power Act (Act) (16 U.S.C. 823(a)), for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed King Hill/Draper Project (FERC Project No. 6472) would be located on Basin Lateral near Glenn's Ferry in Elmer County, Idaho. Correspondence with the Applicant should be directed to: Mr. John J. Strauber, P.O. Box 768, Borah Station, Boise, Idaho 83701.

Purpose of Project—The estimated annual energy output of 0.77 GWh would be sold to the Idaho Power Company.

Project Description—The proposed project would consist of: (1) A diversion structure equipped with an overflow weir and trash rack on the existing Basin Lateral owned and operated by the King Hill Irrigation District; (2) a 36-inch-diameter, 200-foot-long penstock; (3) a powerhouse with a total installed capacity of 175 kW; (4) a tailrace discharging water into the Basin Lateral; and (5) a 30-foot-long, 34.5-kV transmission line interconnecting with an existing Idaho Power Company transmission line.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 30 of the Act, to submit within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 4, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22430 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-450-000]

Colorado Interstate Gas Co.; Application

August 11, 1982.

Take notice that on July 30, 1982, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP82-450-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery of natural gas for the account of Wyoming Interstate Company (WIC), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has contracted to make a nonjurisdictional direct sale of approximately 700,000 Mcf of natural gas to WIC for the purpose of providing line pack gas for the WIC pipeline. It is stated that WIC's pipeline is part of the Trailblazer Pipeline System. Applicant proposes to transport and deliver said natural gas to WIC at three delivery points: the Cheyenne delivery point in Weld County, Colorado, the Wamsutter delivery point in Sweetwater County,

Wyoming, and the Kanda delivery point in Sweetwater County, Wyoming. It is asserted that these three delivery points would enable Applicant to effectuate the delivery of the line pack gas purchased by WIC in an efficient, closely controlled, and timely manner.

Applicant explains that pursuant to the provisions of § 157.53 of the Commission's Regulations, WIC has also contracted for direct natural gas service with Applicant for the purchase and delivery of the test and purge gas necessary for the construction and operation of the WIC pipeline, and that the temporary facilities installed for this sale would also be used to deliver the line pack gas.

It is stated that Applicant would sell the gas to WIC and would charge a price per Mcf equal to the weighted average cost of the gas actually delivered. Applicant states that the cost set forth in the agreement is $4.70 per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22431 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-440-000]

Colorado Interstate Gas Co.; Application

August 11, 1982.

Take notice that on July 23, 1982, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP82-440-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation in interstate commerce of certain existing field compressor fuel gas lines that serve field compressor stations in the Texas Panhandle Field, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that ten of its field compressor stations in the Panhandle Field rely upon high octane fuel gas which has been processed at a local natural gasoline plant, the MAPCO Bivens Gasoline Plant (MAPCO Plant). Applicant further states that shifting market demands make it necessary to backflow transmission supplies to the terminus of the interstate pipeline at the outlet of the MAPCO Plant to meet system operational requirements. Applicant avers that the MAPCO Plant then would not be operated. If this should occur, Applicant maintains that the only available source of fuel gas for the ten field compressors would be interstate gas from Applicant's interstate transmission system making these fuel lines subject to FERC jurisdiction.

Applicant adds that operation of the field stations to provide compression on its gathering system would remain unchanged and would not be affected by the authority sought in this application.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 2, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22432 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-427-000]

Columbia Gas Transmission Corp.; Application

August 11, 1982.

Take notice that on July 16, 1982, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP82-427-000 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon the synthetic gas exchange service (SGES) presently being provided on behalf of certain of its wholesale customers and for a certificate of public convenience and necessity to use Applicant's existing tap facilities at Green Springs, Ohio, for the purpose of receiving synthetic gas (SG) volumes proposed to be purchased by Applicant from Columbia LNG Corporation (Columbia LNG) and for additional authorization to recover, on a rolled-in basis, the cost of SG to be purchased from Columbia LNG under the purchased gas adjustment (PGA) provisions of FERC Gas Tariff, Original Volume No. 1, all as more fully set forth in the application which is on file with

the Commission and open to public inspection.

Applicant states that the purpose of the application is to obtain Commission authorization to the extent necessary to effect a restructuring of the Green Springs SG supply arrangements from a direct purchase from Columbia LNG by the majority of Applicant's wholesale customers to a purchase by Applicant for use of the SG as a part of its overall system supply. The Applicant states that while recognizing that the Commission does not have jurisdiction over the purchase of the SG by Columbia, the effectuation of the proposed restructuring would be contingent upon the Commission granting the requested authorizations, particularly the requested rate treatment regarding the cost of the Green Springs SG.

Applicant summarized the events which led to the proposed restructuring as follows: Underlying the SG purchase and sales agreements between Columbia LNG and Applicant's wholesale customers is a feedstock agreement, dated January 8, 1973, between Columbia LNG and its liquid feedstock supplier, Dome Petroleum Ltd. (Dome), the pricing provisions of which are tied to changes in the posted price of Canadian crude oil at Edmonton, Alberta, Canada. It is stated that a change in the Canadian crude oil pricing schedule in September 1981 threatened to increase dramatically the cost of feedstock purchased from Dome under the above contract which would result in a corresponding increase in the price of the Green Springs SG to Applicant's wholesale customers. Thereafter, Columbia states that it was successful in obtaining a one year interim pricing amendment to its contract with Dome. This interim agreement results in a feedstock commodity price currently equivalent to $5.06 per million Btu, and provides that adjustments would be made to reflect proportional changes in the Canadian border price for natural gas exports, currently $4.94 per million Btu. The one year amendment is scheduled to expire on November 30, 1982, and, absent further agreement, it is asserted that the current feedstock commodity price could increase to a price, under the January 8, 1973 contract, of $6.10 per million Btu as of December 1, 1982 and $7.02 per million Btu as of January 1, 1983, as compared with the above $5.06 which would be in effect at such date assuming the continuation of the pricing terms of the interim agreement.

In order to avoid the serious financial consequences which would be incurred by its customers if reversion to the pricing provisions of the January 8, 1973 contract takes place on December 1, 1982, it is stated that Columbia LNG and Dome entered into a new feedstock agreement on July 28, 1982, which continues the general pricing terms of the interim agreement, conditioned upon the implementation of the agreement to extend the primary contract term for five years beyond 1984. It is stated that for the period December 1, 1982, through March 31, 1984, the pricing provisions of the new Dome/Columbia LNG feedstock agreement would result in feedstock cost savings to its wholesale customers of approximately $231 million, as compared with the feedstock costs which would result from continuation of the original feedstock contract. The new feedstock agreement, it is indicated, calls for feedstock quantities of 75 trillion Btu for the period December 1, 1982, through October 1984 (which equates to annual Green Springs SG volumes of approximately 69 trillion Btu's and 62 trillion Btu's for the period November 1984 through October 1989 (which equates to annual SG volumes of approximately 57 trillion Btu's).

Applicant submits that the revised feedstock agreement provides sufficient feedstock supply flexibility during the contract period beyond 1984 to accommodate Columbia LNG's planned two train winter/one train summer operation of the Green Springs plant. Such an operation it is said would result in daily SG volumes of approximately 225 billion Btu's per day during the winter period and an average of 107 billion Btu's per day during the summer period. Applicant states that this feature results in an effective load factor superior to take or pay levels reflected in conventional gas supply contracts. Similarly, Applicant states that the two train winter/one train summer operation is equivalent to a valuable winter storage service.

Applicant states that the Green Springs SG represents an important supply source which should continue to be used to meet its wholesale customers' natural gas requirements beyond 1984. Applicant also states that it is now considered appropriate to restructure the Green Springs supply arrangements from a direct purchase by wholesale customers to the proposed purchase by Applicant. Further, it is stated that Applicant's customers have expressed a strong preference for such a restructuring.

In support of the restructuring, Applicant cites two reasons. The first relates to timing. In this regard, reference is made to the fact that the above one year interim agreement expires on November 30, 1982, and that the June 28, 1982 agreement with Dome permits either party to withdraw therefrom if regulatory approvals are not received by December 1, 1982. In light of these circumstances, Applicant submits that it is considered preferable from a timing standpoint that only one regulatory approval be obtained, as opposed to the numerous approvals which would be involved if the original structure of the arrangement was maintained. Additionally, it is stated that, in contrast to the curtailment situation which prevailed when the original Green Springs arrangement was assembled, Applicant's gas supply outlook has improved and the threat of curtailment no longer prevails. Thus, it is stated that the reasons for Applicant's customers directly purchasing the SG from Columbia LNG no longer exist. Accordingly, Applicant and Columbia LNG have entered into an agreement to effectuate the proposed restructuring.

It is stated that the contract between Applicant and Columbia LNG, as is the case with the existing arrangement between Columbia LNG and Applicant's wholesale customers, is on a cost of service basis, with Columbia LNG's return being the same as that authorized from time to time by the Commission for Applicant. It is also stated that the contract contains a minimum bill provision which, with certain exceptions such as down-time for plant maintenance, would be triggered when average daily deliveries fall below 50 billion Btu's per day during a billing month. Further the agreement is said to contain a provision pursuant to which Applicant can require Columbia LNG to sell, on a best efforts basis, any feedstocks paid for but not taken, with the revenues from such sales to be credited against the cost of service to the extent paid for such feedstock. Finally, it is noted that the new contract contains a provision pursuant to which Applicant can require Columbia LNG to undertake to invoke the price reopener provision in its contract with Dome, which permits either party to seek a price redetermination in the event economic hardship is claimed by either party or Applicant as a result of the feedstock price.

Applicant states that the Green Springs SG is needed to bridge the gap which exists between its projected supply and requirements during the middle to latter part of the current decade. Also, Applicant states that, even assuming no substitution of alternate supplies, the proposed purchase of the Green Springs SG would have a minor impact upon its unit cost of

purchased gas for the period in question. Moreover, Applicant projects such unit cost impact to be less than would result if alternate supplies were to be acquired.

Finally, Applicant states that it is appropriate to treat the Green Springs SG on a roll-in basis in its jurisdictional rates inasmuch as the supply would benefit all of its wholesale customers. Further, Applicant states that such treatment is consistent with that accorded all of its other gas supplies. Applicant also states that sufficient rate safeguards exist to protect its customers from any possible overrecovery.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without futher notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22413 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-415-000]

Consolidated Gas Supply Corp., Michigan Wisconsin Pipe Line Co., Northern Natural Gas Co., Division of InterNorth, Inc., El Paso Natural Gas Co., and United Gas Pipe Line Co.; Application

August 11, 1982.

Take notice that on July 12, 1982, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP82-415-000 a joint application pursuant to Section 7 of the Natural Gas Act granting Consolidated, Mich Wis, Northern, and El Paso permission and approval to abandon by transfer a portion of their respective undivided interests in certain offshore pipeline and related facilities to United and for a certificate of public convenience and necessity authorizing United to acquire said facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that Consolidated, Mich Wis, Northern, and El Paso operate a 20-inch undersea pipeline, and related appurtenent facilities, extending from the production platform in High Island Block A-571 to a side connection on the central leg of the High Island Offshore System in the southeast section of High Island Block A-546 offshore Texas. It is further submitted that United has acquired new supplies of natural gas comprised of reserves underlying the High Island Area A-570 Field, and in order for United to attach those supplies to its system it proposes to acquire a 25 percent undivided interest in the Block A-571 lateral facilities from Consolidated, Mich Wis, Northern, and El Paso. Applicants assert that the present and proposed percentage ownership interests in the Block A-571 lateral are as follows:

	Percent	
	Present	Proposed
Consolidated	41.670	31.253
Mich Wis	20.835	15.626
Northern	20.835	15.626
El Paso	16.660	12.495
United		25.000

Applicants state that United will acquire its interest in the subject facilities at the original cost thereof.

Any person desiring to be heard or to make protest with reference to said application should on or before September 3, 1982 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10), and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22414 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER80-726-002, ER80-722-001, ER80-721-002, ER80-720-001 and ER80-620-002]

Dayton Power and Light Co.; Compliance Filing

August 11, 1982

Take notice that Dayton Power and Light Company, on July 15, 1982, filed a compliance report pursuant to the Commission's order issued on June 4, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before August 25, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22398 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. EL81-14-000 and ER81-353-000]

Dayton Power & Light Co.; Refund Report

August 11, 1982

Take notice that on August 5, 1982, Dayton Power and Light Company filed a refund report pursuant to the Commission's order of May 19, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before August 27, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22434 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP79-12-016]

El Paso Natural Gas Co.; Rate Schedule Cancellation

August 10, 1982

Take notice that on August 3, 1982, El Paso Natural Gas Company ("El Paso") tendered for filing Thirteenth Revised Sheet No. 1-D.1 and First Revised Sheet Nos. 535, 577 and 618 to its FERC Gs Tariff, Volume No. 2.

El Paso states that the tendered First Revised Sheet Nos. 535, 577 and 618, in the form prescribed by Section 250.2 of the Federal Energy Regulatory Commission's ("Commission") Regulations, when accepted for filing and permitted to become effective, will serve to cancel special Rate Schedules F-1, F-2 and F-3 contained in El Paso's Third Revised Volume No. 2 Tariff. Said special rate schedules are composed of: (1) Instruments of Assignment under which El Paso has acquired certain leasehold interests and (2) Gas Purchase Contracts dated June 16, 1966, February 16, 1973, and July 23, 1962, respectively, between Michigan Wisconsin Pipe Line Company ("Michigan Wisconsin") as Buyer, and El Paso, successor in interest to Exxon Corporation, Sarkeys, Inc., and Joseph K. Morford, II, respectively, as Seller, related to such assignments.[1] El Paso further states that by Assignment Agreements dated January 1, 1980, it has conveyed all of its title and interest in the properties subject to the Gas Purchase Contracts comprising a part of special Rate Schedules F-1, F-2 and F-3, to El Paso Exploration Company ("Exploration Company"), effective as of January 1, 1980.[2] El Paso states that Thirteenth Revised Sheet No. 1-D.1 is being tendered to delete the statement of rates applicable to special Rate Schedules F-1, F-2 and F-3 from said Third Revised Volume No. 2 Tariff.

By order issued July 16, 1982 at Docket Nos. CI82-16-000, *et al.*, the Commission granted Exploration Company, inter alia, certificates of public convenience and necessity authorizing the continued sale, effective as of January 1, 1980, to Michigan Wisconsin from the properties that were assigned from El Paso. In order that El Paso's special Rate Schedules F-1, F-2 and F-3 may be cancelled on a date coincident with the date the Commission authorized such sales to be transferred to Exploration Company, El Paso has requested, pursuant to Section 154.51 of the Commission's Regulations, that waiver be granted of the notice requirements of section 154.22 of said Regulations and that the tendered tariff sheets be permitted to become effective on the date the Commission authorized Exploration Company to commence sales to Michigan Wisconsin from the properties assigned from El Paso. Ordering paragraph (D) of the July 16, 1982 order indicated that El Paso's special Rate Schedules F-1, F-2 and F-3 are redesignated Exploration Company's FERC Gas Rate Schedule Nos. 19, 20 and 21, respectively.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before August 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22399 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[1] The subject special rate schedules provide for the sale and delivery of natural gas by El Paso, at the wellhead, to Michigan Wisconsin in Dewey County, Oklahoma. Certificate authorization for services rendered under said rate schedules was granted by Federal Power Commission order issued October 15, 1975, at Docket No. CP75-290.

[2] Exploration Company is an affiliate of El Paso and is a "natural-gas company" engaged as an independent producer in the exploration for and development of natural gas, and in the sale of natural gas in interstate commerce for resale, pursuant to certificates of public convenience and necessity previously issued by the Commission.

[Docket No. ER82-465-001]

Empire District Electric Co.; Compliance Filing

August 11, 1982.

Take notice that on July 27, 1982, Empire District Electric Company filed revised rates and cost of service statements pursuant to the Commission's order of June 24, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before August 27, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22435 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-24-001]

Equitable Gas Co.; Proposed Change in Rates

August 10, 1982.

Take notice that Equitable Gas Company (Equitable) on August 4, 1982, tendered for filing with the Commission Fourth Revised Sheet No. 6-F of its FERC Gas Tariff, First Revised Volume No. 1, to become effective September 1, 1982. Equitable Gas Company states that the change in rates results from the application of the Purchased Gas Cost Rate Adjustment provision in Section 6 of Rate Schedule GS-1 of FERC GAs Tariff, Original Volume No. 1, approved by the Commission in Docket Nos. CP79-290, RP79-69, and RP79-49.

Equitable states that a copy of its filing has been served upon the purchaser and interested state commissions (and upon each party on the service list of Docket Nos. CP79-290, RP79-69, and RP79-49).

An person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22401 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1506-000]

James L. Everett; Application

August 11, 1982.

Take notice that on July 30, 1982, James L. Everett filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Chairman of the Board, Philadelphia Electric Company
President, Philadelphia Electric Power Company
President, the Susquehanna Power Co.
President, the Susquehanna Electric Co.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22400 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-468-002]

Kansas City Power & Light Co.; Compliance Filing

August 11, 1982.

Take notice that on July 19, 1982, Kansas City Power & Light Company filed revised rates and cost of service statements pursuant to the Commission's order issued June 18, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 24, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22433 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6206-002]

Lester Kelley, Vernon Ravenscroft, and Helen Chenoweth; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

August 11, 1982.

Take notice that on June 21, 1982, Lester Kelley, Vernon Ravenscroft, and Helen Chenoweth (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6206 would be located on Buck and Trapper Creeks near Yellow Pines in Valley County, Idaho. The proposed project would affect the U.S. lands within Boise National Forest. Correspondence with the Applicant should be directed to: Mrs. Helen Chenoweth, Consulting Associates, Inc., P.O. Box 893, Boise, Idaho 83701.

Project Description.—The proposed project would consist of: (1) a 4-foot-high diversion structure on Buck Creek; (2) a 4-foot-high diversion structure on Trapper Creek; (3) a 30-inch-diameter, 11,000-foot-long steel penstock; (4) a 0.25-mile-long, 34.5-kV transmission line interconnecting with an existing Idaho Power Company transmission line. The average annual energy output is estimated to be 8.441 million kWh.

Purpose of Exemption.—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments.—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications.—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before October 4, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license

application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 4, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22415 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5959-001]

New York State Office of Parks, Recreation, and Historic Preservation; Application for Preliminary Permit

August 11, 1982.

Take notice that New York State (Applicant) filed on April 27, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5959 to be known as the Quaker Lake Dam Project located on Quaker Run in Cattaraugus County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Ivan Vamos, Deputy Commissioner for Planning & Operations, New York State Parks and Recreation, Agency Building 1, Empire State Plaza, Albany, New York 12238.

Project Description.—The proposed run-of-the-river project would consist of: (1) A 1000-foot-long, 56-foot-high, existing earth embankment dam owned by the Applicant; (2) an existing 275-acre reservoir with an impounded volume of 7000 acre-feet at 1400 feet M.S.L.; (3) a proposed 4-foot by 4-foot concrete intake structure; (4) a proposed 400-foot-long, 36-inch-diameter steel penstock; (5) a proposed 10-foot by 15-foot powerhouse containing one turbine/generator unit with a rated capacity of 120 kW; (6) a proposed 50-foot-long tailrace; (7) a proposed 1700-foot-long, 4.8-kV transmission line; and (8) appurtenant facilities. The average annual generation of 392,000 kWh would be sold to the New York State Electric and Gas Corporation.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $35,000.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before November 22, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before October 22, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 22, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22416 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-126-000]

Mountain Fuel Supply Co.; Proposed Changes in FERC Gas Tariff

August 10, 1982.

Take notice that Moutain Fuel Supply Company (Mountain Fuel), on July 30, 1982, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

Original Sheet No. 2–A
First Revised Sheet No. 29
First Revised Sheet No. 198
First Revised Sheet No. 199
First Revised Sheet No. 228
First Revised Sheet No. 276
Second Revised Sheet No. 304
Second Revised Sheet No. 305
First Revised Sheet No. 306–A
First Revised Sheet No. 356
First Revised Sheet No. 407
First Revised Sheet No. 444
First Revised Sheet No. 445
Second Revised Sheet No. 544
First Revised Sheet No. 598
First Revised Sheet No. 599
First Revised Sheet No. 600
First Revised Sheet No. 643
First Revised Sheet No. 644
First Revised Sheet No. 645
First Revised Sheet No. 659
First Revised Sheet No. 660
First Revised Sheet No. 672
First Revised Sheet No. 691

The changes are based on a transmission cost-of-service calculation for the twelve month ended March 31, 1982, as adjusted, and are proposed to become effective September 1, 1982.

Mountain Fuel states that the principal reasons for this transmission rate filing are: (1) The general increase in transmission costs and (2) the anticipated completion of new compression facilities certificated in Docket No. CP80–7 near Rock Springs, Wyoming. This rate application is also a compliance filing submitted in conformance with a stipulation arrived at between the Commission Staff and Mountain Fuel in Docket No. CP80–7 wherein it was agreed that a Section 4(e) filing would be initiated by Mountain Fuel approximately six months prior to the anticipated commencement of services proposed in connecton with the new compression facilities. The CP80–7 authorized facilities are now projected to become operational on or about February 1, 1983.

Mountain Fuel states that copies of this filing were served on the Company's jurisdictional customers and affected state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 110). All such petitions or protests should be filed on or before August 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22402 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-48; FERC Docket No. JD79-16337]

State of New Mexico, Section 103 NGPA Determination, Warren Petroleum Co., (a division of Gulf Oil Corp.; Petition To Reopen Final Well Category Determination and Withdraw Application for Determination

August 11, 1982

On September 8, 1980, Warren Petroleum Company, a division of Gulf Oil Company (Warren), P.O. Box 2100, Houston, Texas 77001 filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen a final well category determination that gas from the Mark Well No. 8 (Mark Well) qualified as gas produced from a new onshore production well pursuant to Section 103 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3342 (Supp. IV 1980). This determination, made by the jurisdictional agency of New Mexico, became a final determination on September 29, 1979, under NGPA Section 503(d) and 18 CFR 275.202 of the Commission's Regulations.

Warren states that subsequent to the time the determination became final, the Commission issued its final finding in Docket No. GP80–80, L&B Oil Company, Inc. and based on the Commission's position in that order, it is now necessary to seek a withdrawal of the final well category determination for the Mark Well.

Warren further states that it has not collected the NGPA Section 103 price and therefore no refunds will be required to the purchasers of natural gas from the subject well. Notwithstanding this statement, the Commission hereby gives notice that the question of whether refunds, plus interest as computed under § 154.102(d) of the Commission's regulations, will be required is a matter which is subject to the review and final determination of the Commission.

Any person desiring to be heard or to make any protest to the requested withdrawal should file, on or before September 16, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of §§ 1.8 or 1.10 of the Rules of Practice and Procedure. All protests filed will be considered in determining the appropriate action to be taken, but will not make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22410 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-27-000]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

August 10, 1982

Take notice that North Penn Gas Company (North Penn) on August 3, 1982, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA Clause for rates to be effective September 1, 1982.

The change in rates contained in this filing reflects an increase of 56.394¢ per Mcf pursuant to Section 14.1 (PGA Clause) of North Penn's tariff to reflect supplier rates which will be in effect on September 1, 1982.

Additionally, this filing reflects a surcharge credit of 17.627¢ per Mcf pursuant to Section 14.2 and Section 14.3 of North Penn's tariff which results from amounts accumulated in the Unrecovered Purchased Gas Cost Account for the period January 1, 1982 through June 30, 1982; the jurisdictional portion of supplier refunds received by North Penn for the same six-month period; carrying charges computed in accordance with Commission Regulations and a carry-over balance from the surcharge credit effective for the period September 1, 1981 through February 1, 1982.

In compliance with § 282.602(d) of the Commission's Regulation, North Penn states that it has had no activity in either of the accounts 192.1 or 192.2 for the prior PGA period.

North Penn has included in this PGA filing the jurisdictional portion of a refund received from Consolidated Gas Supply Corporation in connection with Gulf Oil Corporation's FERC Docket No. C164–26.

Consolidated Gas Supply Corporation stated in its refund letter that Texas Eastern had stated that Gulf's refund

" '* * * is made without prejudice to and without waiver of all or any part of Gulf's position regarding this payment as more fully set forth in Gulf's Application For Rehearing filed with the Commission and in the Petition For Review pending before the Third Circuit * * *'

"Texas Eastern has also been served notice that in the event Gulf prevails in any part of the relief sought in the petitions regarding the subject refund, Gulf will pursue all legal remedies to obtain prompt reimbursement of the refund with interest.

"Should the above occur, Consolidated Gas Supply Corporation will likewise pursue its rights to obtain a similar reimbursement of the enclosed refund from its customers."

Should this occur, North Penn Gas Company will pursue its rights to obtain a similar reimbursement of this refund amount from its customers.

North Penn respectfully requests a waiver of any of the Commission's Rules and Regulations as may be required to permit Seventieth Revised Sheet No. PGA–1 and Sixth Revised Sheet No. 15H, submitted herewith, to become effective September 1, 1982 as proposed.

Copies of this filing were served upon North Penn's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22403 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-452-000]

Northwest Pipeline Corp.; Application

August 11, 1982

Take notice that on July 30, 1982, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110–1526, filed in Docket No. CP82–452–000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the increase in daily contract demand of certain of its existing customers and for permission and approval to abandon the sale and delivery of volumes of natural gas to two of its existing customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant requests that Intermountain Gas Company's (Intermountain) firm daily contract obligation to purchase natural gas, pursuant to Applicant's FERC Gas Rate Schedule ODL–1, be reduced by 500,000 therms and that concurrently Intermountain's daily contract demand, pursuant to Applicant's SGS–1 Rate Schedule, be increased by 66,500 therms. It is stated that other of Applicant's existing customers have agreed to purchase the 500,000 therms of Rate Schedule ODL–1 contract demand relinquished by Intermountain and that Southwest Gas Corporation (Southwest) has requested that 66,500 therms of Southwest's SGS–1 daily contract demand be assigned to Intermountain.

Therefore, Applicant seeks to: (1) Abandon the sale of 500,000 therms of Rate Schedule ODL–1 contract demand presently authorized for sale to Intermountain; (2) to abandon the sale of 66,500 therms of Rate Schedule SGS–1 of contract demand presently authorized for sale to Southwest, and; (3) to reallocate such volumes as set forth below:

Customer	Proposed reallocation rate schedules[1]	
	ODL–1	SGS–1
Intermountain	(500,000)	66,500
Cascade Natural Gas Corp	109,500	—
Northwest Natural Gas Co	152,000	—
Southwest	66,500	(66,500)
City of Ellensburg	5,000	—
Washington Natural Gas Co	162,000	—
Western Slope Gas Co	5,000	—
Total	0	0

[1] Volumes in Therms.

It is stated that there would be no change in Applicant's overall contract demand obligations. Applicant states that it has been informed by Intermountain that the proposed shift in contract demand proposed herein would result in a significant reduction in the costs that Intermountain would otherwise incur under its present contract demand obligations pursuant to Applicant's Rate Schedule ODL–1.

Applicant explains that Intermountain has experienced a reduction of residential customer average usage by 50 percent and the loss of significant industrial loads and that Intermountain finds it necessary to do everything possible to reduce the cost to its remaining customers. It is stated that the net benefit to Intermountain, based on rates Applicant proposes to place in effect October 1, 1982, would be approximately $3,900,000.

Applicant submits that no increase in the maximum daily delivery obligation by delivery point is proposed, that no facilities are required to effectuate the instant proposal, and that no additional peak-day deliveries would be accomplished within the existing volumetric and pressure limitation of Applicant's presently effective service agreements.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without futher notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22417 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-31-000]

Northwest Pipeline Corp.; Application for Staff Adjustment

August 11, 1982.

On July 13, 1982, Northwest Pipeline Corporation (Northwest), P.O. Box 1526, Salt Lake City, Utah 84110 filed an application for a staff adjustment pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432, (Supp. IV 1980), and § 1.41 of the Federal Energy Regulatory Commission (Commission) Rules of Practice and Procedure. Specifically, Northwest seeks an adjustment from §§ 270.101(e), 273.204(c)(2) and 273.302(e) & (f) which relate to accounting and interest collection requirements associated with payments made for natural gas purchases.

Northwest requests waiver of these provisions to the extent that they require the calculation and collection of interest on sums paid for natural gas pursuant to the interim collection procedures. Northwest also seeks waiver of the regulations limiting recovery of certain overpayments by cash or check rather than through current production; further Northwest seeks waiver of certain requirements contained in concurrence statements of producer refund reports. Northwest states that compliance with these regulations creates a special hardship, inequity and an unfair distribution of burdens.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure. Order No. 24, issued March 22, 1979 [44 FR 18961, March 30, 1979].

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before September 1, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22404 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-696-000]

Public Service Company of New Mexico; Filing

August 11, 1982

Take notice that on July 29, 1982, the Public Service Company of New Mexico (PNM) tendered for filing Economy Energy Agreements between the City of Anaheim, California, and the City of Riverside, California.

PNM states that the purpose of the agreements is to provide economy interruptible energy to the Cities.

PNM requests an effective date of August 1, 1982, and therefore requests waiver of the Commission's notice requirements.

PNM further states that copies of this filing were sent to the City of Anaheim and the City of Riverside and to the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 24, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22405 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-695-000]

Public Service Company of New Mexico; Filing

August 11, 1982.

Take notice that on July 29, 1982, the Public Service Company of New Mexico (PNM) tendered for filing Service Schedule H to FPC Schedule No. 4 to the Public Service Company of New Mexico/Texas-New Mexico Power Company (successor to Community Public Service Co.) Interconnection Agreement.

PNM states that the Service Schedule is for bilateral interruptible transmission service surplus to the serving party's system and the rate is 1 mill in accordance with FERC Order No. 84.

PNM requests an effective date of August 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon Texas-New Mexico Power Company and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with this Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22436 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-140-000]

Public Service Company of New Hampshire; Refund Report

August 11, 1982.

Take notice that on June 17, 1982, Public Service Company of New Hampshire filed a refund report pursuant to the Commission's order of December 11, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before August 27, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with this Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22437 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-659-000]

Public Service Company of New Hampshire; Refund Report

August 11, 1982.

Take notice that on June 1, 1982, Public Service Company of New

Hampshire filed a refund report pursuant to the Commission's order of March 25, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 27, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22438 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL82-21-000]

Sacramento Municipal Utility District v. Pacific Gas & Electric Co., Southern California Edison Co., and San Diego Gas & Electric Co.; Filing

August 11, 1982.

Take notice that on July 30, 1982, Sacramento Municipal Utility District (SMUD) filed a complaint against Pacific Gas & Electric Company, Southern California Edison Company and San Diego Gas & Electric Company (collectively, the "Companies"). The complaint seeks, inter alia, a declaration of SMUD's rights under a contract between the Companies and SMUD for extra high voltage transmission and exchange service. SMUD states that the contract at issue is on file with the Commission as FPC Rate Schedule No. 37.

SMUD requests that the Commission issue a declaratory order that SMUD is entitled to 200,000 kilowatts of transmission service under the contract, at the rates specified in the contract; require the Companies to provide this service to SMUD in accordance with the contract; take such other action as may be necessary or appropriate to ensure that SMUD receives transmission service over the Pacific Northwest Intertie; and grant such other or further relief as may be appropriate.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a peitition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22439 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6556-000]

Sanborn Wood Products Inc./ Glenallan Realty Corp.; Application for Preliminary Permit

August 11, 1982.

Take notice that Sanborn Wood Products Inc./Glenallan Realty Corp. (Applicant) filed on July 26, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6556 to be known as the Glenallan Mills Project located on the Millers River—North Branch in Worcester County, Massachusetts. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mark Popham, Cullinan Engineering Co., Inc. 200 Auburn Street, Auburn, Massachusetts 01501.

Project Description.—The proposed project would consist of: (1) The restoration of an existing breached dam 15 feet high and 300 feet long; (2) a reservoir having a surface area of 15 acres with negligible storage and normal water surface elevation of approximately 1,015 feet m.s.l.; (3) a new 6-foot-diameter steel penstock 110 feet long; (4) a new powerhouse containing two units with a total generating capacity of 78.5 kW; (5) a new tailrace culvert 10 feet in diameter and 1,000 feet long leading to (6) a new tailrace channel 20 feet wide extending to the main channel; and (7) appurtenant facilities. The Applicant is the owner of the existing facilities and estimates annual energy production would be 170,000 kWh. Project energy would be used to power Applicant's shop with all excess power being sold to Massachusetts Electric Co.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $45,000.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before November 3, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before October 25, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or § 4.101 et seq. (1981), as appropriate).

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 25, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E.

Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22440 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6539-000]

Town of Skykomish, Wash., Application for Preliminary Permit

August 11, 1982.

Take notice that the Town of Skykomish (Applicant) filed on July 16, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)) for Project No. 6539 to be known as the Anderson Creek Hydropower Project located on Anderson Creek, within Snoqualmie-Mt. Baker National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mayor, Town of Skykomish, P.O. Box 308, Skykomish, Washington 98288.

Project Description.—The proposed project would consist of: (1) A 36-inch-wide concrete intake structure placed in the streambed at elevation 1,600 feet; (2) a diversion pipeline 6,000 feet long; (3) a powerhouse at elevation 640 feet containing a turbine generator with 1.41-MW capacity and 6.17-GWh annual energy production; and (4) a transmission line 1 mile long. Project output would be used to offset power purchases made by the Applicant.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 24 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is $100,000.

Competing Applications.—This application was filed as a competing application to Lawrence J. McMurtrey's application for Project No. 6187-000 filed on April 7, 1982. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 16, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22418 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. G-14247-000, et al.]

Sohio Petroleum Co., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

August 10, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before August 19, 1982 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and Location	Price per Mcf	Pressure base
G-14247-000, 4/26/82 [1]	Sohio Petroleum Company, 50 Penn Place—Suite 1100, Oklahoma City, Okla. 73118.	United Gas Pipe Line Company, South Lewisburg Field, Acadia Parish, Louisiana.	(2)	15.025
CI82-58-001, 7/21/82 [1]	Marathon Oil Company, 539 South Main Street, Findlay, Ohio 45840.	Texas Eastern Transmission Corporation, Block 89 Field, South Pass Area, Offshore Louisiana.	(3)	15.025

[1] Amendment to add additional delivery point(s).
[2] Applicant is filing under Gas Purchase Contract dated 1-31-78, as amended and amended by Amendment dated 4-5-81.
[3] Applicant is filing under Gas Purchase Contract dated 7-2-81 and amended by Letter Agreement dated 7-6-82.
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 82-22406 Filed 8-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER76-205-000]

Southern California Edison Co.; Refund Report

August 11, 1982.

Take notice that on July 13, 1982, Southern California Edison Company filed a refund report pursuant to the Commission's letter order of June 18, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before August 24, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22441 Filed 8-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ID-2020-000]

Edwin M. Theisen; Application

August 11, 1982.

Take notice that on July 30, 1982, Edwin M. Theisen filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President, Northern States Power Company (Wisconsin)
President, Lake Superior District Power Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22407 Filed 8-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ID-2021-000]

Glenn B. Thorsen; Application

August 11, 1982.

Take notice that on July 30, 1982, Glenn B. Thorsen filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Finance; Northern States Power Company (Wisconsin)
Vice President, Finance; Lake Superior District Power Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a peitition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22408 Filed 8-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA82-2-29-001]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

August 10, 1982.

Take notice that on July 30, 1982 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, identified as follows:

1. *Proposed Tariff Sheets*
Second Revised Volume No. 1
Third Revised Sheet No. 245
Third Revised Sheet No. 247
Third Revised Sheet No. 248
2. *Alternate Proposed Tariff Sheets*
Second Revised Volume No. 1
Seventh Revised Twenty-Second Revised Sheet No. 12
Seventh Revised Twenty-Second Revised Sheet No. 15
Sixth Revised Sheet No. 16
Original Volume No. 2
Fifth Revised Twenty-Eighth Revised Sheet No. 121

Transco proposes that the tariff sheets in group 1, which reflect a change in the effective dates of Transco's semi-annual Purchase Gas Adjustment (PGA) and Demand Charge Adjustment (DCA) filing from the currently scheduled effective dates of March 1 and September 1 of each year to November 1 and May 1 of each year.

If Tranco's proposal to change its PGA adjustment date is denied, Transco proposes that the tariff sheets in group 2 be accepted to implement PGA and DCA rate changes effective September 1, 1982. Such tariff sheets reflect a net

increase of 53.3¢ per dekatherm (dt) in the commodity of delivery charge of Transco's CD, G, OG, E, PS and S–2 rate schedules, a net increase of 51.7¢ per dt in the commodity charge under the ACQ rate schedule, and a net increase of 1.9¢ per dt in the delivery charge under the X-20 rate schedule. The details of these changes are as follows:

a. *Tracking Rate Increase under PGA Clause*

This tracking rate change amounts to an increase of 51.7¢ per dt in the commodity of delivery charge in Transco's CD, G, OG, E, PS, S–2 and ACQ rate schedules. This increase is comprised of a 17.0¢ per dt increase in the current gas cost adjustment, and to a 34.7¢ per dt increase in Transco's Deferred Adjustment. The increase in the Deferred Adjustment represents the difference between the currently effective negative Deferred Adjustment of 18.3¢ per dt and the proposed positive Deferred Adjustment of 16.4¢ per dt which is required to eliminate, over the six-month period commencing September 1, 1982, the amount of $68,995,767 representing net deferrals accumulated at June 30, 1982 within Transco's Unrecovered Purchased Gas Cost Account (FERC Account No. 191), in accordance with Transco's currently effective tariff.

b. *Tracking Rate Increase for Curtailment Related Credits*

This tracking rate change amounts to an increase of 1.9¢ per dt in the commodity or delivery charge under Transco's CD, G, OG, E, PS, S–2 and X–20 rate schedules. This increase represents the difference between the currently effective negative unit adjustment of 0.9¢ per dt and the proposed positive unit adjustment of 1.0¢ per dt. Such rate change is designed to eliminate, over the six-month period beginning September 1, 1982, the estimated debit balance in the Deferred Account as of August 31, 1982 and the curtailment-related (demand charge) credits to customers' bills which are estimated to be given during said six-month period.

The Company states that copies of the filing are being mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22409 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-437-000]

Trunkline Gas Co.; Application

August 11, 1982.

Take notice that on July 23, 1982, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP82–437–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an increase in the volumes of natural gas transported to Alpha Chemical Corporation (Alpha), an existing direct industrial customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas sales contract between Applicant and Alpha dated October 1, 1981, Applicant proposes to transport and deliver to Alpha up to 150 Mcf of additional natural gas per day on an interruptible basis. It is asserted that Applicant currently delivers 200 Mcf per day on a firm basis to Alpha.

It is asserted that the proposed sale would enable Alpha to increase its production of fiberglass panels at its plant in Colierville, Tennessee.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22419 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP77-249-002]

Trunkline Gas Co.; Petition To Amend

August 11, 1982.

Take notice that on July 23, 1982, Trunkline Gas Company (Petitioner), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77–249–002 a petition to amend the order issued August 29, 1977,[1] in Docket No. CP77–249 pursuant to Section 7(c) of the Natural Gas Act so as to authorize Petitioner to relocate to Beauregard Parish, Louisiana, a natural gas delivery point for Transcontinental Gas Pipe Line Company (Transco), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that the order issued August 29, 1977, authorized Petitioner to transport natural gas for Transco from a point in Vermilion Block 14 to an existing interconnection with Transco in the Cow Island Plant, Vermilion Parish, Louisiana.

It is stated that due to the subsequent cancellation of an agreement entered into by Petitioner, Transco, Mobil Oil Exploration & Producing Southeast, Inc. and Union Oil Company of California, Petitioner no longer has the ability to redeliver natural gas to Transco at the Cow Island Plant. Hence, Petitioner requests authorization to change the point of redelivery to Transco to an existing point in Beauregard Parish, Louisiana. It is explained that Transco would pay Petitioner a monthly charge of $220 for the transportation service,

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

with an excess or deficiency charge of 2.90 cents per Mcf.

It is asserted that Petitioner has sufficient available capacity in its existing facilities to transport Transco's gas; hence, appoval of this petition would enable petitioner to deliver contracted gas supplies to Transco.

Any person desiring to be heard or to make any protest with reference to said petition to amend should, on or before September 3, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22420 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6501-000]

Twin Falls Beaver Ranch; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

August 11, 1982.

Take notice that on July 6, 1982, Twin Falls Beaver Ranch (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6501 would be located on Springs tributary to Snake River near the town of Twin Falls in Twin Falls County, Idaho. Correspondence with the Applicant should be directed to: Mr. James J. May, May, May, Sudweeks, Shindurling and Stubbs, Attorneys at Law, 516 Second St. East, Twin Falls, Idaho 83301.

Project Description.—The proposed project would consist of: (1) A 2-foot-high, 20-foot-long diversion structure across; (2) an existing catch basin; (3) an intake structure with a hand operated valve and trashracks; (4) a 12-inch-diameter, 260-foot-long penstock; (5) a powerhouse to contain s single generating unit with a rated capacity of 20 kW, operating under a head of 78 feet; (6) an underground transmission line extending from the powerhouse to an existing transformer. The estimated average annual energy production is 172,800 KWh.

Purpose of Exemption.—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protests the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments.—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications.—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before October 1, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 1, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22421 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-455-000]

United Gas Pipe Line Co.; Application

August 11, 1982.

Take notice that on July 30, 1982, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP82-455-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 3.8 miles of 12-inch pipeline and related facilities to connect gas reserves purchased or to be purchased in Vermilion Block 381, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered a gas purchase contract for Mesa Petroleum Company's 80 percent interest in the estimated 85,311,000 Mcf

of natural gas underlying the Vermilion Block 381 field, offshore Louisiana. Applicant further states that it expects to purchase the remaining 20 percent interest in Block 381 from Santa Fe Energy Company in the near future. Applicant estimates that the average day deliverability from Block 381 is presently 16,000 Mcf of natural gas per day. By January 1983, Applicant expects the average day deliverability to increase to 29,000 Mcf per day.

In order to transport the reserves purchased in Block 381, Applicant proposes to construct and operate approximately 3.8 miles of 12-inch pipeline and related facilities. The proposed pipeline would extend from the producers platform in Vermilion Block 381 to a point of interconnection with a 12-inch sub-sea tap located in Vermilion Block 397, offshore Louisiana, at the junction of Michigan Wisconsin Pipe Line Company's (Michigan Wisconsin) 24-inch line and 12-inch line.

Applicant indicates that Michigan Wisconsin will file an application to transport the Block 381 gas in the near future but may initially commence transportation service for Applicant pursuant to Michigan Wisconsin's blanket transportation certificate.

Applicant estimates the cost of the facilities to be $9,009,500 which would be financed from general company funds and existing lines of commercial credit.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22422 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-454-000]

United Gas Pipe Line Co.; Application

August 11, 1982.

Take notice that on July 30, 1982, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas, filed in Docket No. CP82-454-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 10.2 miles of 16-inch pipeline and related facilities to connect gas reserves purchased or to be purchased in South Marsh Island Area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered a gas purchase contract for Mesa Petroleum Company's 70 percent interest in the estimated 29,859,000 Mcf of natural gas underlying South Marsh Island Area Blocks 155 and 156, offshore Louisiana. Applicant further states that it expects to purchase the remaining 30 percent interest in Blocks 155 and 156 from Oxy Petroleum, Inc., in the near future. Applicant estimates that the average day deliverability from Blocks 155 and 156 is 16,000 Mcf of natural gas per day in 1983 and 25,000 in 1984.

In order to transport the reserves purchased in Blocks 155 and 156, Applicant proposes to construct and operate approximately 10.2 miles of 16-inch pipeline and related facilities. The proposed pipeline would extend from South Marsh Island Area Block 155 to South Marsh Island Area Block 127, offshore Louisiana, where it would interconnect with the facilities of Sea Robin Pipeline Company (Sea Robin).

Applicant indicates that Sea Robin would file an application to transport the gas from Blocks 155 and 156 in the near future but may initially commence transportation service for Applicant pursuant to Sea Robin's blanket transportation certificate.

Applicant estimates the cost of the facilities to be $14,143,100 which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such a hearing is duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22423 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6554-000]

Upper Mississippi River Co.; Application for Preliminary Permit

August 11, 1982.

Take notice that Upper Mississippi River Company (Applicant) filed on July 23, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)) for Project No. 6554 to be known as the Mississippi River Lock and Dam No. 8 located on

the Mississippi River in Vernon County, Wisconsin. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Loren E. Dessonville, 1650 Farnam Street, Omaha, Nebraska 68102.

Project Description.—The proposed project would consist of: (1) A proposed powerhouse containing generating units having a total installed capacity of 14 MW; (2) a proposed overhead, 69-kV transmission line; and (3) appurtenant facilities. The estimated average annual energy output would be 86,000,000 kWh. The Applicant would utilize an existing dam and lands owned by the U.S. Army Corps of Engineers.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months to study and determine the cost, environmental impacts, design alternatives, and feasibility for developing hydroelectric power. Consultation with Federal, state, and local agencies would be made to determine the environmental effects of the project The Applicant estimates the cost of the project would be $100,000.

Competing Applications.—This application was filed as a competing application to Western Wisconsin Municipal Power Group's application for Project No. 6500 filed on July 21, 1982. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 7, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22424 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6553-000]

Upper Mississippi River Co.; Application for Preliminary Permit

August 11, 1982.

Take notice that Upper Mississippi River Company (Applicant) filed on July 23, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6553 to be known as the Mississippi River Lock and Dam No. 7 located on the Mississippi River in La Cross County, Wisconsin. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Loren E. Dessonville, 1650 Farnam Street, Omaha, Nebraska 68102.

Project Description.—The proposed project would consist of: (1) A proposed powerhouse containing generating units having a total installed capacity of 12,700 kW; (2) a proposed overhead, 69-kV transmission line; and (3) appurtenant facilities. The average annual energy output is estimated to be 64,670,000 kWh. The Applicant would utilize an existing dam and lands owned by the U.S. Army Corps of Engineers.

Proposed Scope of Studies under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months. During this time studies would be made to determine the engineering, economic, and environmental feasibility of the project. In addition, Federal, state, and local agencies would be consulted concerning the environmental effects of the project. The Applicant estimates the cost of the studies would be $100,000.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before November 23, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before October 25, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 25, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION",

"COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-22425 Filed 8-16-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-10-FRL 2189-6]

Notice of Issuance of PSD Permit to Chucach Electric Association Incorporated

Notice is hereby given that on August 6, 1982, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit to Chugach Electric Association, Inc. for approval to expand the hours of operation for turbine No. 4 at the Bernice Lake Power Plant near Kenai, Alaska.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations, subject to certain conditions specified in the permit.

Copies of the permit are available for public inspection upon request at the following location: Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Room 11D, M/S 532, Seattle, Washington 98101.

Dated: August 6, 1982.

Robert S. Burd, Jr.,

Acting Regional Administrator.

[FR Doc. 82-22344 8-16-82; 8:45 am]

BILLING CODE 6560-50-M

[A-10-FRL 2189-5]

Notice of Issuance of PSD Permit to Omega Fuels Incorporated

Notice is hereby given that on August 5, 1982, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit to Omega Fuels, Inc. for approval to construct an ethyl alcohol manufacturing plant near Kennewick, Washington.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations, subject to certain conditions specified in the permit.

Copies of the permit are available for public inspection upon request at the following location: Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Room 11D, M/S 532, Seattle, Washington 98101.

Dated: August 5, 1982.

Robert S. Burd, Jr.,

Acting Regional Administrator.

[FR Doc. 82-22345 Filed 8-16-82; 8:45 am]

BILLING CODE 6560-65-M

[FRL 2109-5]

Notice of Findings Preliminary to Lodging of Amended Consent Decrees

AGENCY: Environmental Protection Agency.

ACTION: Notice of findings preliminary to lodging of amended consent decrees.

SUMMARY: The Administrator indicates her preliminary intention to exercise her discretion and agree to extensions of compliance dates of United States Steel Corporation under the Steel Industry Compliance Extension Act of 1981.

EFFECTIVE DATE: August 10, 1982.

FOR FURTHER INFORMATION CONTACT: Michael S. Alushin, Acting Associate, Enforcement Counsel for Air (EN-329), Office of Legal and Enforcement Counsel, United States Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 382-2620.

SUPPLEMENTARY INFORMATION:

Background

In July, 1981, Congress enacted the Steel Industry Compliance Extension Act (SICEA), Pub. L. No. 97-23, popularly known as "Steel Stretchout," which amended Section 113 of the Clean Air Act. The legislation was drawn up in response to the recommendations of the Tripartite Committee, an ad hoc group of representatives from industry, labor, government and environmental groups called together by the President in 1980 to address the special problems of the steel industry.

The environmental history of the steel companies in this country has been an arduous one. In the Clean Air Act Amendments of 1970, 42 U.S.C. 1857 *et seq.* (1970) amended 1977), Congress directed the federal Environmental Protection Agency to promulgate air quality standards for various air pollutants, and required the states to adopt plans (State Implementation Plans, or SIPs) to attain and maintain the standards, imposing control measures on individual sources where necessary. In 1975, representatives of the steel industry testified to a House Subcommittee that no steel plants were in compliance with the SIP requirements then applicable to them.[1]

In the Clean Air Act Amendments of 1977, Congress extended the deadlines for attainment of the national ambient air quality standards and at the same time strengthened the Act considerably.

In 1977, using the new enforcement authority provided by Congress, EPA launched a vigorous campaign to bring the steel companies and other major polluters into compliance with the SIPs. By 1979, EPA had negotiated consent decrees with many of the major steel producers. Other plants were covered by new rigorous SIP requirements specifically tailored to iron and steel manufacturing processes. Pollution control in the steel industry, however, required tremendous infusions of capital, greater than for many other heavy industries: for example, in 1980, nineteen percent of the steel industry's capital expenditure went for environmental clean-up, as opposed to nine percent for electric utilities, and five percent for automobile manufacturers. House Report *supra* at 9. Not only was the percentage of capital invested higher, but according to the steel companies, it was more difficult for them to raise. *Id.* Moreover, at the same time they were belatedly spending siginificant sums on pollution control, American steel companies were losing ground in the marketplace to imports from mills overseas. Domestic plants which could not compete were closing. The industry argued that the only long term solution was to quickly and substantially modernize U.S. facilities. Such an effort, however, would put additional pressure on limited capital resources.

In the SICEA, Congress adopted a compromise devised by the Tripartite Committee to mitigate these competing claims for capital. In essence, Congress gave the EPA Administrator authority to extend deadlines for installation of certain capital-intensive pollution control equipment for up to three years

[1] Hearings on H.R. 2622 and H.R. 2650 before the Subcommittee on Health and the Environment, Serial No. 94-24 at 690, May 1975, cited in H.R. Rep. No. 97-121, 97th Cong., 1st Sess. (1981) (House Report) at 4.

if a company agreed to use the money saved instead for capital investments which improved the efficiency and productivity of its steelmaking facilities. Thus Congress provided that each company which took advantage of the Act eventually would spend twice the value of the deferred pollution controls—it would still meet all its environmental obligations (albeit later than initially required) and it would invest at least an equal *additional* sum in modernization.

To insure that stretchout relief went only to companies that were meeting their obligations under the law in good faith, Congress drew up eligibility criteria, including a requirement that each applicant demonstrate that it is in compliance with all the requirements of its existing Federal consent decrees, or that any violations are *de minimis* in nature. Section 113(e)(1)(E), 42 U.S.C. 7413(e)(1)(E). Moreover, to obtain relief, a company must agree to bring all of its other facilities into compliance with all applicable emission limitations (installing reasonably available control technology where necessary). Section 113(e)(1)(C), 42 U.S.C. 7413(e)(1)(c). In addition, it must agree to interim pollution control measures, scheduled increments of progress with stipulated penalties for failures to meet the deadlines, and whatever other requirements, such as monitoring, the Administrator finds appropriate. *Id.* The decree must prohibit any degradation of air quality below current levels. *Id.*, and see Section 113(e)(1)(F), 42 U.S.C. 7413(e)(1)(F).

To consent to any extensions, the Administrator must find that the company has satisfied all these statutory requirements. The statute places the burden of proof on the company. Section 113(e)(2), 42 U.S.C. 7413(e)(2).

The vehicle Congress chose for granting relief is a new consent decree, or an amendment to an existing consent decree, to be lodged in Federal district court and to include the terms of the extension and the undertakings of the company required by the statute. The court must of course approve the decree before it becomes effective. Anyone who wishes to challenge the decree or the Administrator's findings may do so in the same forum. Sections 113(e)(7)(B), 113(e)(8) and 304(b)(1)(B), 42 U.S.C. 7413(e)(7)(B), 7413(e)(8) and 7604(b)(1)(B).

In short, the Administrator first determines in each case if an applicant qualifies for stretchout relief according to the criteria listed in the statute. If she preliminarily finds a company is eligible for relief, she then negotiates with the company to obtain the decree described above.

Application of U.S. Steel Corporation

On September 14, 1981, the U.S. Steel Corporation filed an application with the EPA requesting relief under SICEA. It supplemented its application periodically, filing its final submission on July 26, 1982. In its application, the company requested the Administrator to defer until after December 1982 compliance obligations at five facilities requiring expenditures of approximately $89.6 million. It proposed instead to select modernization projects of at least equal value to the pollution control deferral costs.

U.S. Steel is the largest domestic producer of steel. It has also been the object of vigorous enforcement efforts on the part of Federal, State and local authorities since the early 1970's. By now U.S. Steel has consented to the entry of six Federal judicial decrees.

Preliminary EPA Decision

The Administrator has made a preliminary determination that U.S. Steel satisfies certain of the statutory requirements as set out in more detail below. She therefore has agreed to negotiate with the company to fashion a consent decree that also meets the requirements of the Act. Until the decree is completed to her satisfaction and entered in court, the Administrator may in her discretion withdraw her consent if circumstances warrant.

Issues Raised in Preliminary Determination

Two issues arose in the processing of U.S. Steel's application for stretchout. The first concerns the so-called "necessity test"—the requirement that deferral of compliance obligations be "necessary" to permit investment in modernization projects, section 113(e)(1)(A), 42 U.S.C. 7413(e)(1)(A). The second involves the requirement that the company be in compliance with all of its consent decrees, or that any violations be *de minimis* in nature. Section 113(e)(1)(E), 42 U.S.C. 7413(e)(1)(E).

The Necessity Test

In the spring of 1982, U.S. Steel purchased the Marathon Oil Company for approximately $6.1 billion in a takeover contest. The assets used for the Marathon merger were very large compared to the pollution costs U.S. Steel seeks to defer under the SICEA.

The Administrator has nevertheless determined that U.S. Steel is eligible for relief under SICEA. It is true that the Marathon acquisition suggests that U.S. Steel *could* have gone ahead with modernization even without stretchout. However, the Administrator interprets the Act to require a company to demonstrate, not that it *could not* modernize without compliance extensions, but rather that it *would not*. Though the statute requires that an extension be "necessary" to moderization, "necessary" is not defined in the text of the statute. One must look to other provisions and the legislative history to determine what Congress intended. The House and Senate Reports do reflect concern that some small, undiversified steel companies might be so short of capital that simply as a matter of capital availability they could not continue to meet their environmental obligations and modernize at the same time. However, the legislative history indicates equally clearly that Congress designed SICEA to accomplish a broader objective as well: to draw money back into steel, to encourage the U.S. steel industry to upgrade its steel-making capital stock rather than abandoning it, to bring about investments in steel which would otherwise not have been made. House Report, *supra*, at 12. This larger purpose is reflected for example, in Section 113(e)(2) which limits qualifying modernization projects to those which "would not be made during the same time period if extension(s) of time for compliance with clean air requirements were not granted pursuant to this subsection". *Id.*

U.S. Steel has submitted an affidavit stating that unless relief is granted under SICEA, it will not undertake the modernization projects listed in its application. The Administrator finds that this showing satisfies the requirements of the statute.

The De Minimis Requirement

As indicated above, to consent to relief, the Administrator must also find that an applicant is in compliance with all of its Federal consent decrees, or that any violations are *de minimis* in nature. Section 113(e)(1)(E), 42 U.S.C. 7413(e)(1)(E).

The text of the Act does not defin *de minimis*; as in many other statutes, Congress has left to an administrative agency the task of working out the meaning of a critical term in case-by-case analysis. The legislative history adds little by way of gloss, although it is apparent the Congress included the *de minimis* requirement at least to be sure that, first, progress towards environmental goals continued steadily even with stretchout, and second, that relief would be denied to "bad actors," companies which disregarded

environmental requirements at the expense of others who complied.

For present purposes, the Administrator has adopted an interpretation of *de minimis* based on the normal meaning of the phrase—small, of little concern. She has evaluated each violation separately to determine if it is *de minimis*, rather than, for example, assessing the significance of a violation in the context of a company's entire compliance effort. This interpretation requires the Administrator, *inter alia*, to deny relief to a company if she finds even one violation which is not *de minimis*.

U.S. Steel is a party to six different consent decrees. Agency review turned up numerous violations. Some of them were clearly of small concern. There were, for example, violations which had already been cured; there were short delays in meeting certain interim compliance schedule dates where the company would nevertheless meet the final compliance deadline; there were some cases where pollution control equipment had been installed but the company shut down the facility before a compliance demonstration could be completed. There were delays in controlling a number of sources because better control techniques became available after some of the early decrees were signed, and the company needed a short time to switch. In some cases, EPA and U.S. Steel agreed to modify decree requirements to reflect the change in circumstances. There is language in the House Report on the SICEA (not in the text of the Act or the Senate Report, however) which suggests that, in general, decrees may not be amended in order to bring companies into compliance for purposes of Section 113(e)(1)(E). The changes at issue here, however, were made for a reason unrelated to SICEA—to facilitate the introduction of improved technology. The Administrator doubts that Congress intended to stop such routine adjustments while a SICEA application was pending, and thus believes that these technical amendments fall outside of the House Committee's ban.

There were two categories of violations which required further analysis—certain emission limitation violations, and certain compliance schedule violations.

At several facilities U.S. Steel installed pollution control equipment which was inadequate to meet emission limitations set out in the applicable consent decree. In each case, even with controls the source exceeded the standard by a significant amount. The Administrator nevertheless finds these violations are *de minimis* under SICEA because the sources have been shut down. As long as this state of affairs continues, technically the sources are in compliance with their emission limitations. Even if this situation is thought to represent a violation, however, the air is not being polluted and the violation surely must be considered less serious for that reason. Moreover, based on information in the record, the Administrator finds that these shutdowns were made in good faith, not to evade the requirements of the Act. The company has taken and is continuing to take remedial measures to improve the performance of the faulty equipment. In any amendment to decrees under SICEA, the Administrator will require that these and similar sources operate in compliance when operation recommences.

The Conference Committee stated in its Report that "it is not the policy of the Clean Air Act or the intent of the Congress that air quality standards or emission limitations be met by cutbacks in production or reductions in employment." Joint Explanatory Statement of the Committee of Conference, H.R. Rep. No. 97-61, 97th Cong. 1st Sess. (1981), at p. 6. The Committee substituted this passage for a provision in the Senate bill which specifically addressed employment, presumably to give the Administrator more flexibility to achieve the purposes of the Act. The Administrator believes that considering shutdown in a *de minimis* determination does not violate either the letter or the spirit of the Committee's observation. First, the shutdowns at issue here are generally temporary. More important, the alternative to making a positive finding based on shutdown is denying the applicant all stretchout relief. The stretchout relief is likely to add more jobs, and more secure jobs, than temporary shutdowns would cost, so the overall effect of a liberal shutdown policy would be to *promote* employment.

U.S. Steel has also failed to purchase and install certain pollution control devices as required by provisions of other decrees. Consent decrees for steel companies and other industrial sources often require not only final compliance with emission limitations by a particular date, as above, but also set intermediate deadline for submission of engineering plans, issuance of purchase orders, and installation of control equipment—so-called "increments of progress"—to ensure that the work will be completed on time. U.S. Steel has missed a number of these intermediate deadlines. In each case, however, the deadline for final compliance was in 1982, after U.S. Steel first applied for strectchout relief and after SICEA was passed; indeed even the *interim* requirements violated, with one exception, occurred in the last three months of 1981 or later. In addition, these are among the deadlines the company requested the Adminstrator to "stretch" under SICEA. The Administrator believes that Congress intended that she consent to the extension of such late-maturing deadlines, provided all the other requirements of the Act were satisfied, and she therefore finds these particular compliance schedule violations *de minimis* under Section 113(e)(1)(E), 42 U.S.C. 7413(e)(1)(E).

As indicated above, Congress did not define *de minimis* in the text of the Act, but left its application largely to the Administrator's discretion, at least in the first instance. After considering all the facts and circumstances of each violation, the Administrator has concluded the schedule violations are *de minimis*. The Clean Air Act Amendments of 1977 required each state to demonstrate compliance with the national ambient air quality standard for particulate matter (the standard at issue here) by December 31, 1982, and, with respect to each of its "non-attainment" areas, to take all reasonably available control measures to ensure that they would meet the statutory deadline. Section 172, 42 U.S.C. 7502. Therefore, when EPA entered into a consent decree with an individual source, it normally required that all equipment be installed and operating by December 31, 1982, at the latest. (In many decrees, of course, compliance was feasible, and was required, much earlier.) However, the vehicle by which Congress proposed to make funds available for modernization was the deferral of certain capital expenditures, that is, requirements to buy pollution control equipment. If companies were required to continue purchasing equipment up to the 1982 deadline until the Administrator granted relief, on pain of denial of stretchout, the whole statutory scheme would be defeated. If such late maturing obligations were not eligible, there would be virtually nothing left to stretch, and no additional funds would be available for modernization. If violations of such obligations could not be found to be *de minimis* companies would be caught in a "Catch 22": in order to remain eligible for any relief, as time passed they would have to deny themselves increasing increments of relief.

There is one passage in the House Report which suggests the opposite conclusion—that *any* compliance

schedule violation which is not cured before the Administrator acts on the violator's application is not *de minimis* and will bar relief. This structure does not appear in the text of the Act itself, however, or in the Senate Report. (Indeed, the Senate appears to have taken a quite different position, tolling schedule violations on the date of the passage of the Act. S. Rep. No. 133, 97th Cong. 1st Sess. (1981) at 3.) Moreover, when the House Committee drafted this passage, it was widely anticipated that relief would be granted quickly. Thus it is unlikely that the Committee intended its suggestion to have the drastic effect described above. The passage was included primarily to prevent backsliding-taking off controls already supposed to be in place—and to limit the benefits of the Act to companies which had acted on their environmental obligations in good faith. Finding violations of certain late maturing deadlines to be *de minimis* in no way compromises these objectives.

Finally, several of the sources at which U.S. Steel failed to install equipment are presently shut down. From an equitable point of view it seems unreasonable to hold a company strictly to a compliance schedule drawn up on the assumption that a facility would be operated continuously, if the facility subsequently shuts down. Provided that the company commits to begin work on pollution control sufficiently in advance of startup so that the facility is in compliance as soon as it begins to operate again, there will be no increase in air pollution over that contemplated by the original schedule (there is less if the facility stays down for any length of time). Hence one could reasonably find that shutdown represented an additional basis for finding a violation of a late maturing compliance deadline to be *de minimis* under the Act. Once again, EPA intends to insist that any final consent decree under SICEA contain a requirement that such sources attain final compliance with applicable emission limitations before they re-open.

Findings

On the basis of information submitted by the applicant and other information available to me (including background documents prepared by EPA and available for public inspection at the Central Docket Section, West Tower, EPA Headquarters, Washington, D.C.; refer to Docket No. EN 81-16B), I make the following preliminary Findings:

(1) I find that the following compliance obligations (capital expenditures necessary to achieve compliance with SIP and RACT where applicable) may be extended:

Project	Cost (dollars in millions)
A. Fairless Works:	
i. Open hearth tapping	2.0
ii. Blast furnace casthouses (2)	2.0
iii. Sinter plant	29.0
B. Lorain Works:	
i. Blast furnace casthouses (3)	3.0
ii. Basic oxygen process shop	11.5
C. National-Duquesne Works:	
i. Blast furnace No. 6 casthouse	2.0
D. Gary Works:	
i. Blast furnace casthouses (6)	8.0
ii. Coke Battery No. 1 stack	7.0
iii. Basic oxygen process shop fugitives	19.1
E. South Works:	
i. Blast furnace casthouses (2)	3.0
ii. AOD electric furnace fugitives	3.0
Total	89.6

I find that the following compliance obligations may not be extended:

A. Lorain Works: Fuel Distribution Facility

This fuel distribution program is currently not a requirement under either the Federal consent decree or the Federally-approved Ohio Implementation Plan. Also, EPA has not designated RACT guidelines for this program. SICEA permits compliance extensions only for sources subject to SIP or RACT or consent decree requirements.

(2) I find (a) that the extensions of compliance are necessary to allow the company to make those capital investments in its iron- and steel-making operations which are described in confidential portions of the application, (b) that each of the investments will improve the efficiency and productivity of the company's iron- and steel-making operations and (c) that each modernization investment is proposed to be made at communities which already contain iron- and steel-making facilities.

The company asserted that the identity of the modernization projects listed is proprietary business information and entitled to confidential treatment by the Agency. EPA has concluded that the company's assertions have met the standards set forth in 40 CFR Part 2 and are, therefore, entitled to confidential treatment. The company will be required to commit to invest in projects to be selected from the list an amount of capital equal to the amount of pollution control expenditures deferred herein.

(3) I find that in order to achieve compliance with the Clean Air Act (and RACT where applicable) at all sources in its iron- and steel-producing operations the company will be required to make at least the following capital expenditures (based upon EPA's estimate of the amount of capital remaining to be expended from this day forward):

Description	Cost (dollars in millions)
A. Fairfield:	
Coke Battery No. 2 pushing	7.0
Coke Battery No. 2 larry car purge	0.2
Coke Battery No. 2 stack	7.0
Coke Battery No. 2 preheater	0.2
Coke Battery No. 5 and 6 pushing	15.0
Coke Battery No. 9 stack	5.0
Q-BOP "C"	3.0
Q-BOP "U" and "X"	12.0
Blast Furnace No. 5 casthouse	1.0
Blast Furnace No. 6 casthouse	1.0
Blast Furnace No. 7 casthouse	1.0
Sinter line No. 4 windbox	5.0
B. Geneva:	
Open Hearth tapping	0.1
Blast Furnace No. 1, 2, 3 casthouse	0.1
Sinter handling	0.1
Sinter discharge	0.1
Coke quenching	0.4
Coke Batteries No. 1, 2, 3, 4 pushing	3.0
C. Lorain:	
Coke Batteries "G", "H", "I", "J"	6.0
Coke quenching (5 towers)	7.9
Blast Furnace casthouse (3)	3.0
Basic Oxygen Shop fugitives	11.5
D. Baytown: Electric Arc Furnace secondary	12.0
E. Fairless:	
Electric Arc Furnace secondary	12.0
Coke Battery No. 1 and 2 pushing	7.0
Blast Furnace Casthouse (1)	1.0
Blast Furnace Casthouses (2)	2.0
Open Hearth tapping	2.0
Sinter plant	29.0
F. Edgar Thompson:	
Blast Furnace No. 3 casthouse	1.0
Basic Oxygen furnace	2.0
G. Saxonburg:	
Sinter lines No. 2 and No. 3	2.0
H. Homestead:	
Blast Furnace No. 3 casthouse	1.0
Blast Furnace No. 4 casthouse	1.0
Open Hearth tapping	6.0
I. South:	
Pug Mills (2)	0.4
Electric Arc Vessel 411 and 412	0.4
AOD electric arc fugitives	3.0
Basic Oxygen furnace	0.8
Blast Furnace casthouses (2)	3.0
Sinter plant	6.5
J. Gary:	
Coke Battery No. 1 stack	7.0
Coke Battery No. 1 pushing	0.2
Coke Battery No. 1 doors	0.3
Coke Battery No. 2 pushing	0.2
Coke Battery No. 2 charging	1.0
Coke Battery No. 2 offtakes	1.0
Coke Battery No. 2 doors	0.3
Coke Battery No. 3 pushing	2.5
Coke Battery No. 3 charging	1.0
Coke Battery No. 3 offtakes	1.0
Coke Battery No. 3 doors	0.3
Coke Battery No. 7 offtakes	0.2
Coke Battery No. 13 offtakes	0.2
Coke Battery No. 13 doors	0.2
Coke Battery No. 15 charging	0.3
Coke Battery No. 15 offtakes	0.1
Coke Battery No. 16 offtakes	0.1
Coke Quench Towers 1, 5, 8, 9	14.0
Sinter plant No. 2 windbox/discharge	10.0
Sinter plant No. 3 windbox	1.6
Blast Furnace No. 4 casthouse	1.0
Blast Furnace No. 6 casthouse	1.0
Blast Furnace No. 7 casthouse	1.0
Blast Furnace No. 8 casthouse	1.0
Blast Furnace No. 10 casthouse	1.0
Blast Furnace No. 13 casthouse	3.0
Basic Oxygen Furnace No. 1 secondary	0.1
Basic Oxygen Furnace No. 1 Hot Metal Transfer	3.0
Q-Basic Oxygen secondary	13.0
Q-Basic Oxygen Furnace Hot Metal Transfer	3.0
K. Duquesne: Blast Furnace No. 6 casthouse	2.0
Total	252.3

(4) I find that a "phased program of compliance" (as defined in section 113(e)(2) of the Act) would require the company to make the capital expenditures on the following schedule:

At least $192.5 million by December 31, 1983.

At least a total of $222.4 million by December 31, 1984.

At least a total of $252.3 million by December 31, 1985.

(5) I find that an integration of the qualifying capital expenditures and the "phased program of compliance" schedule, when allowing for the required modernization investments under section 113(e)(1)(B), results in the following required schedule of capital expenditures:

At least $162.7 million for non-deferred pollution control to meet SIP, RACT, and existing decrees by December 31, 1982. A portion of this total represents costs associated with control programs for sources which are shut down and which may not resume operation until sometime after 1982. Therefore, this spending requirement may be modified to reflect this fact. In no event shall any of these sources be allowed to resume operation except in compliance with the SIP, RACT, or consent decree, where applicable, since the compliance program is not deferred herein.

At least $89.6 million for improving efficiency and productivity by July 16, 1983. SICEA requires the investments in modernization projects be made within two years from the date of enactment of the law which occurred on July 17, 1981.

At least a total of $192.5 million for pollution control projects by December 31, 1983.

At least a total of $222.4 million for pollution control projects by December 31, 1984.

At least a total of $252.3 million for pollution control projects by December 31, 1985.

To the extent possible, the decrees must incorporate this spending schedule.

(6) I find that the company will have sufficient funds to comply with the capital expenditure requirements set forth in finding (5).

(7) I find that the company is not in compliance with its existing Federal judicial consent decrees entered under Section 113(b) of the Clean Air Act, but that such violations are *de minimis* in nature. In particular, I find the following violations of the following consent decree provisions are *de minimis* in nature:

A. *United States of America v. United States Steel Corporation*, U.S. District Court for the Northern District of Illinois, Eastern Division, C.A. No. 76 C 4545, Part II, paragraphs 2 and 3:

Under the terms of the decree, the company was required to install a Wet ESP to control sinter plant windbox particulate emissions to achieve compliance with Illinois Pollution Control Board Rules 202(b) and 203(d)(2) as drawn at the date of entry of the decree. Compliance was required in August 1980. U.S. Steel installed an Electro-Dynamic Venturi Scrubber which has not achieved compliance with the aforesaid rules applicable to the windbox. For example, a December 1981 test showed emissions of approximately 102 lbs./hour versus a standard of approximately 65 lbs./hour.

The sinter plant operations were discontinued for business reasons by the company on March 19, 1982, and thus, are not presently a source of particulate emissions. Furthermore, U.S. Steel has filed a sworn affidavit which states as follows:

> During the period of shutdown United States Steel Corporation will perform work to improve emission control at these facilities as required to meet the standards which will apply when operations resume. It is United States Steel Corporation's intent that upon resumption of operations these facilities will be in compliance with the emission limitations applicable at that time.

Finally, the South Works sinter plant, when operating, recycles the emissions from the discharge end through the windbox for energy efficiency purposes. The result is that emissions from the discharge end are well below the allowable for the discharge end. The combined allowables for the discharge and windbox ends are greater than the actual emissions from the both ends combined and are vented through a common stack.

In view of all of the facts and circumstances surrounding this violation, I find the violation to be *de minimis* in nature.

B. *Alabama Air Pollution Control Commission, and the State of Alabama, ex rel. William J. Baxley, Attorney General, and Jefferson County Board of Health, and United States Environmental Protection Agency* v. *United States Steel Corporation*, U.S. District Court for the Northern District of Alabama, Southern Division, C.A. No. 77–H–1630–S:

i. Part III, paragraph B.4.: Under the terms of the decree, the company is required to employ an enclosed pushing system on Coke Battery No. 2 resulting in the capture of 85 percent of the total particulate emissions generated by the pushing process. Filterable particulate emissions from the gas cleaning device are limited to 0.030 lb./ton of coke pushed in the dry coal mode. These standards have not been achieved Compliance was required in 1979.

This source is presently on "idle hot", thus no emissions are being generated from the pushing process. An affidavit submitted by the company indicates that the Fairfield Works is not likely to be brought back on line until 1984, thus, Coke Battery No. 2 is not likely to be a source of air pollution for over one year. In addition, the affidavit cited in paragraph (7)A above applies to this source as well.

In view of all of the facts and circumstances surrounding this battery, I find the violations to be *de minimis* in nature.

ii. Part III, paragraph B.3.: Under the terms of the decree, the company was required to demonstrate that particulate emissions during the larry car purge at Coke Battery No. 2, a relatively small source of particulate matter, contain no more than 0.02 gr./dscf of filterable particulate matter. The company has not conducted the required performance test to demonstrate compliance with this standard, although control equipment has been installed.

As stated above, Coke Battery No. 2 is presently on "idle hot" and is not likely to resume operation until 1984. Thus, it will not be a source of emissions for over one year. The affidavit quoted in paragraph (7)A above applies to this source as well. In view of all of the facts and circumstances, I find the failure to performance test to be a violation that is *de minimis* in nature.

iii. Part III, paragraph B.11.: Under the terms of the decree, the discharge from the preheater stack associated with Coke Battery No. 2 is limited to 0.020 gr./dscf of filterable particulate matter. The company has not demonstrated compliance.

As stated above, the Fairfield Works is presently shut down and is not likely to resume operation until 1984. Thus, no coal would be preheated for coking. Also, the affidavit quoted in paragraph (7)A above applies to this source as well.

In view of all of the facts and circumstances surrounding this violation, I find it to be *de minimis* in nature.

iv. Part III, paragraph C.6.: Under the terms of the decree, the particulate mass emission rate from the combustion stack at Coke Battery No. 9 is limited to 0.015 gr./dscf. The decree provided that the company could demonstrate compliance with the standard within 120 days after initial charging of the battery (which occurred on February 20, 1979) by means of certain operation and maintenance

procedures. In the event that compliance was not demonstrated by means of the operation and maintenance procedures, the decree provided that a gas cleaner be installed and demonstrated to comply with the standard by June 20, 1981. The company did not demonstrate compliance by means of operation and maintenance procedures and the company has not purchased or installed a gas cleaner.

This battery has been on "idle hot" since August 23, 1980, and is not likely to resume operation until 1984. The affidavit quoted in paragraph (7)A. applies to this source as well.

In view of all the facts and circumstances surrounding this violation, I find it to be *de minimis* in nature.

v. Paragraph IV, C.2.: Under the terms of the decree, the company was required to demonstrate compliance with the mass emission limitation of 0.030 lbs. per ton of coke pushed from the pushing process at Coke Battery No. 9 by September 1, 1980.

Although the company has achieved 0.030 lbs. per ton when only the "front half" of the sampling train is analyzed, the "full train" analysis showed marginal violations although the control system is very clean and efficient. EPA is analyzing the data to determine whether or not the decree should only require the "front half" as the appropriate compliance determination method.

This battery has been on "idle hot" since August 23, 1980. In addition, as stated above, the Fairfield Works is shut down presently so there are no emissions from the pushing process. The source is not likely to resume operation until 1984. The affidavit quoted in paragraph (7)A. above applies to this source as well.

In view of all of the facts and circumstances surrounding this violation, I find it to be *de minimis* in nature.

vi. Paragraph IV, 3.v. and 4.v.: Under the terms of the decree, the company was required to meet "all applicable Sections of the Alabama Air Pollution Control Rules and Regulations, Jefferson County Air Pollution Control Rules and Regulations, and Alabama Implementation Plan" for the control of particulate emissions from the Q–BOP shop vessels "U" and "X" by March 31, 1979.

The company has not installed controls necessary to comply with the applicable regulations.

However, as stated above, the Fairfield Works is shutdown presently and is not likely to resume operation until 1984. Thus, it is not likely to be a source of particulate matter for over one year.

In view of all of the facts and circumstances surrounding this violation, I find it to be *de minimis* in nature.

vii. Paragraph IV, 4.e.: Under the terms of the decree, the company was required to demonstrate compliance by means of performance tests with the particulate emission standards applicable to sinter lines Nos. 1, 2, and 3, by February 28, 1980. The company has installed equipment but has not conducted a performance test. A performance test conducted on sinter line No. 4, which utilizes the same type of equipment, showed compliance. EPA engineers believe that when performance tested lines Nos. 1, 2, and 3 are likely to show compliance.

In addition, as stated above, the Fairfield Works is presently not operating and is not likely to resume operation until 1984.

In view of all of the facts and circumstances, I find the failure to conduct performance tests at these sinter lines to demonstrate compliance to be violations that are *de minimis* in nature.

C. *United States of America v. United States Steel Corporation,* Case No. C–79–225, U.S. District Court for the Northern District of Ohio, Eastern Division, Paragraph IV C.:

Under the terms of the decree, the company was required to place purchase orders for control equipment at the Basic Oxygen Furnace Shop. Those purchase orders were issued on time but since the company was then proposing an alternative and more cost-effective control strategy, the project was not continued on schedule. In order to accommodate more cost-effective strategies, EPA and the company negotiated a modification of the decree requirements to reflect the alternative control strategy with the same final compliance date as the original strategy. That negotiated modification is pending action at EPA.

The company has initiated construction of the alternative controls. In addition, it has requested a SICEA extension of the compliance deadline for this source. In view of all of the facts and circumstances surrounding this violation, I find it to be *de minimis* in nature.

D. *United States of America, and City of Bordentown, State of New Jersey, and Commonwealth of Pennsylvania, Department of Environmental Resources v. United States Steel Corporation,* C.A. No. 79–3645; *United States of America, and Commonwealth of Pennsylvania, Department of Environmental Resources v. United States Steel Corporation,* C.A. No. 80–0743, U.S. District Court for the Eastern District of Pennsylvania:

i. Part III, paragraph B.2.: Under the terms of the decree, the company was required on June 30, 1981, to either place purchase orders for the control of the sinter plant windbox, or, notify the plaintiffs that operation of the sinter plant would be discontinued on or before December 31, 1982. The company has not placed purchase orders or made the aforesaid notifications. The company also did not commence installation of the control equipment by the December 31, 1981, deadline.

The company applied for an extension of the compliance requirements in the September 14, 1981, application. The Fairless Works is located in a primary attainment area for particulate matter. In view of all of the facts and circumstances, I find the violations to be *de minimis* in nature.

ii. Part II, paragraph B.2.a.: Under the terms of the decree, the company was required to place purchase orders for the control of blast furnace casthouse particulate emissions from one casthouse by March 1, 1982. The company did not issue the purchase order. EPA believes that the final compliance date in the decree can still be achieved. The company applied for an extension for this source in its September 14, 1981, SICEA application. The Fairless Works is located in a primary attainment area for particulate matter. In view of all the facts and circumstances surrounding this violation, I find it to be *de minimis* in nature.

iii. Paragraph I.B.4.: Under the terms of the decree, visiable emissions are prohibited from leaking from the offtakes at coke batteries No. 1 and No. 2 in excess of five percent of all offtakes on each battery. Any visible leaks from the doors are prohibited in excess of 10 percent of the total number of doors on each battery. Compliance was required by April 1, 1982.

On July 27, 1982, EPA inspectors determined that the offtake leakage rate was 6.3 percent at coke battery No. 1. However, the inspection indicated that the offtakes are well luted and that the leaks were minor. A July 23, 1982, inspection by the Pennsylvania Department of Environmental Resources (DER) showed a five percent leakage rate. Monthly self-monitoring data compiled by the company has been analyzed by EPA. The analysis showed exceedances of the standard but indicated a steady and continuing trend

of improvement by the company in reducing the leaks.

Self-monitoring data from the company also indicated sporadic exceedances of the door leakage standard at battery No. 1 from April through early July. However, EPA's July 27, 1982, inspection showed a door leakage rate of only 6.9 percent and indicated that the doors are being properly cleaned.The DER inspection of July 23, 1982, showed a 9.8 percent rate. Both the EPA and DER inspections indicate that emissions are below the allowable levels, but it is EPA's practice to observe several days of operation before compliance is considered officially demonstrated. This battery is scheduled to be taken out of operation at the end of July 1982.

Coke battery No. 2 was only operated for 14 days since the compliance deadline. It was shut down on April 15, 1982, and has not been operated since then. The company's self-monitoring data for those 14 days of operation indicated exceedances of the standards. During the period of shutdown, however, the company has repaired and adjusted the doors with the aim of reducing the potential for leakage. With respect to the offtakes on battery No. 2, the company intends to employ the same luting material it has recently employed at No. 1 with improved results over earlier materials. The company has asserted that when the battery resumes opeation it will operate better than batter No. 1.

Finally, the Fairless Works is located in a primary attainment area for particulate matter.

In view of all of the facts and circumstances surrounding these violations, I find them to be *de minimis* in nature.

E. *United States of America, and Commonwealth of Pennsylvania Department of Environmental Resources, and County of Allegheny, and United Steelworkers of America Local Union No. 1397, and Group Against Smog and Pollution v. United States Steel Corporation,* C.A. No. 79–709, U.S. District Court for the Western District of Pennsylvania:

i. Paragraph 8 b.1.A.: Under the terms of the decree, the company was to achieve and demonstrate compliance with the visible emission standard applicable to the Duquesne Works No. 6 blast furnace casthouse on April 30, 1982. In order to achieve compliance the decree sets forth a schedule which required the installation of control equipment to be commenced on October 30, 1981, and to be completed on January 31, 1982. The company had failed to comply with either of the requirements but they are the type of late maturing obligations Congress intended for relief in SICEA.

The company applied for an extension of this compliance program in its SICEA application of September 14, 1981. The company did not thereafter meet the schedule but instead continued experimentation with a cost-effective technique know as "suppression technology." In view of all of the facts and circumstances surrounding this violation, I find it to be *de minimis* in nature.

ii. Paragraph 8 b.1.A.: Under the terms of the decree, the company was to demonstrate compliance with the applicable visible emission standard at the Edgar Thomsom Works blast furnace casthouse No. 1 by September 30, 1981, and at the Edgar Thomson Works blast furnace casthouse No.2 by October 30, 1981. In both cases, control equipment was installed but due to business conditions the furnaces were taken out of operation before the performance tests were officially conducted. Unofficial observations by EPA technical personnel indicate that the installed equipment is probably capable of meeting the applicable standard.

In view of all of the facts and circumstances surrounding the failure to conduct the performance tests, I find the violations to be *de minimis* in nature.

iii. Paragraph 8 b.1.A.: Under the terms of the decree, the company was to demonstrate compliance with the applicable visible emission standard at the Edgar Thomson No. 3 blast furnace casthouse by May 31, 1982. Control equipment was to be completely installed by February 28, 1982. The equipment has not been completely installed and there has been no compliance demonstration.

The control equipment is being installed as part of a major rebuild of the furnace which has not yet been completed. Installation of the control equipment has been commenced. The furnace was shut down to begin the major rebuild on November 11, 1979, and has not operated since. In other words, it has not been a source of particulate matter for nearly three years. In view of all of the facts and circumstances surrounding this violation, I find it to be *de minimis* in nature.

iv. Paragraph 8 b.1.A.: Under the terms of the decree, the company was required to demonstrate compliance with the visible emission standard applicable to the Homestead Works No. 3 blast furnace casthouse on February 28, 1982, and at the Homestead Works No. 4 blast furnace casthouse on June 30, 1982. In order to achieve compliance, the consent decree provides that the control equipment was to be installed by November 11, 1981, and March 31, 1982, respectively. Equipment was not installed.

Blast furnace No. 3 has been shut down since June 10, 1981, and No. 4 since March 26, 1982, and are not presently sources of particulate matter. In addition, these shutdowns occurred prior to the final compliance date in each case. In view of all of the facts and circumstances surrounding this violation, I find it to be *de minimis* in nature.

v. Paragraph 9.: Under the terms of the decree, the electrostatic precipitator on strand No. 1 of the Saxonburg Works sinter plant was to be performance tested by December 31, 1981. This requirement originated from an order of the Pennsylvania Department of Environmental Resources and was incorporated by reference in the Federal consent decree.

On April 2, 1982, the company shut down the sinter plant for business reasons. The source is presently not emitting any particulate matter. In addition, the company installed an electrostatic precipitator which EPA engineers believe is likely to be capable of achieving the emission limitation. In view of all of the facts and circumstances surrounding this violation, I find it to be *de minimis* in nature.

vi. Paragraph 3.: Under the terms of the decree, the company was required to undertake a control program for particulate emissions from 13 coke batteries at the Clairton Works. Compliance schedules were established for each process associated with cokemaking including charging, pushing, doors, topside, and stacks. Although the company has demonstrated compliance with the standards related to charging, doors, stacks, and topside (except for a very minimal lid leak problem at battery 15), the compliance program standards associated with the pushing process have not been achieved despite an ongoing, vigorous, good faith effort by the company.

Pushing emissions are controlled at Clairton by use of a mobile gas capture and cleaning system known as a "Chemico Car" system. U.S. Steel has spent approximately $50 million on this system. At the time the standards were negotiated for the decree, there was uncertainty regarding what the actual performance of the system would be.

U.S. Steel's initial experience with the system at Clairton indicated that significant violations of the standards for capture and mass emissions were

occurring. At the same time, the availability of the system was quite low.

Since the initial poor performances of the system at Clairton, U.S. Steel has undertaken a vigorous improvement program. Availability of the system has increased significantly while capture and gas cleaning have improved markedly. Particulate emissions from the Clairton Works have decreased dramatically. U.S. Steel is continuing its efforts to improve all aspects of the performance and availability of the Chemico system.

In addition, as of July 26, 1982, all of the batteries at the Works are either on cold shutdown or "idle hot".

In view of all of the facts and circumstances surrounding these violations, I find them to be *de minimis* in nature.

F. *United States of America and State of Utah v. United States Steel Corporation*, C.A. No. C–80–0661W, United States District Court for the District of Utah, Central Division:

i. Paragraph B.4.k.: Under the terms of the decree, the company was required to install "beanie hoods" by March 1, 1982, for the control of particulate emissions from the open hearth furnace shop tapping operation. The company did not install the hoods. However, prior to the installation deadline, the company proposed to substitute a different, more cost-effective control program for open hearth tapping known as "suppression technology". A modification to the decree to reflect this change in control strategy will be lodged in the district court by the Department of Justice shortly.

In view of all the facts and circumstances surrounding this violation, I find it to be *de minimis* in nature.

ii. Paragraph B.3(a)(4).: Under the terms of the decree, the company was required to begin the installation of a "local hooding" system by August 1, 1981, to control particulate emissions from the casthouses at blast furnaces No. 1, 2, and 3. Installation of the hooding system was not initiated. However, prior to the installation deadline, the company proposed to substitute a different more cost-effective control strategy known as "suppression technology" which has been developed for blast furnaces as well as open hearth tapping.

A modification to the decree to reflect this change in control strategy will be lodged in the district court by the Department of Justice shortly. In view of all of the facts and circumstances surrounding these violations, I find them to be *de minimis* in nature.

iii. Paragraph B.6.(c).: Under the terms of the decree, the company was required to control particulate emissions from the power house bypass stack to certain limits. At the time the decree was signed, the parties believed that the emission limitations reflected good combustion performance. Subsequently, performance tests were conducted which revealed exceedances of the emission limitations in the decree. However, EPA observed that the combustion equipment was in fact performing well. Thus, it became apparent to EPA that the emission limitations were more stringent than that which reflected good combustion performance.

A modification to the decree to incorporate the standards will be lodged in the district court by the Department of Justice shortly. In view of all of the facts and circumstances surrounding these violations, I find them to be *de minimis* in nature.

iv. Paragraph B.7.: Under the terms of the decree, the company was required to control particulate emissions from the finishing mill stacks to certain limits. At the time the decree was signed, the parties believed that the emission limitations reflected good combustion performance. Subsequently, performance tests were conducted which showed exceedances of the emission limitations in the decrees. However, EPA observed that the combustion equipment was performing well in fact. Thus, it became apparent to EPA that the emission limitations were more stringent than that which reflected actual good combustion performance.

A modification to the decree to incorporate the standards will be lodged in the district court shortly. In view of all of the facts and circumstances surrounding these violations, I find them to be *de minimis* in nature.

v. Paragraph C.1.b.: Under the terms of the decreee, the company was required to place a purchase order by October 1, 1981, for a treatment unit to control furnace gas and tapping emissions from the open hearth shop by September 1, 1983. This treatment unit would have been control equipment above and beyond that required by law and was agreed upon by the parties in lieu of EPA pressing a claim for civil penalties for past Clean Air Act violations. The company did not place a purchase order for the equipment. However, EPA and the company have agreed to a substitute control program which includes the installation of computers to maintain precise automatic control of all combustion processes at the soaking pits; installation of continuous emission monitors to provide for feedback to the control system at the soaking pits; installation of a new mixed gas mixing station with computer control to automatically control and stabilize the BTU value of mixed gases going to all rolling mill processes; installation of fume suppression technology at the mixer building to control emissions from the hot metal transfer; and, installation of gallery conveyor covers on the coke handling system between the blast furnace and the coke plant. Each of these programs will provide an environmental benefit above and beyond that required by law and will be completed by the same date and the treatment unit would have been completed.

A modification to the decree to incorporate theses projects will be lodged by the Department of Justice in district court shortly.

In view of all the facts and circumstances surrounding this violation, I find it to be *de minimis* in nature.

vi. Paragraph B.2.(g)(1)(B): Under the terms of the decree, the combustion stacks on the coke batteries are limited to emissions of opacity not greater than 20% as determined by EPA Reference Method 9. Observations made by this Reference Method have indicated sporadic violations. However, because these are sources which can be stack tested for mass emissions, mass emission limitations are also established and compliance with the mass emission limitations is determined in accordance with EPA Method 5. Tests conducted using Method 5 indicated compliance with the mass emission limitation while concurrent Reference Method 9 observations showed violations. In view of all of the facts and circumstances surrounding these opacity violations, I find them to be *de minimis* in nature.

vii. Paragraph B.4.(e): Under the terms of the decree, U.S. Steel is undertaking a research and development project to develop a continuous emissions monitoring device for open hearth emissions. A study was to be submitted by July 1, 1981, but unforseen technical difficulties have delayed completion of the study. In addition, the company has been attempting to correct the difficulties and the State and EPA have contributed to the study. In view of all of the circumstances, I find the failure to complete the study, to be a violation that is *de minimis* in nature.

The preceding list is a compilation of violations of existing Federal judicial consent decrees which are presently known to me and which continue to the present. Several other violations of Federal decrees which occurred since

the entry of the decrees are no longer occurring and are, therefore, not addressed herein. The list of violations which I have found to be *de minimis* in nature for purposes of the Steel Industry Compliance Extension Act of 1981 should not be construed in any manner as expression of Agency policy regarding the propriety of or nature of determinations which the Agency would make or remedies which the Agency would seek in circumstances or in contexts other than under the Steel Industry Compliance Extension Act of 1981.

(8) I find that the extensions of compliance contemplated herein will not result in degradation of air quality during the term of the extensions.

Based on those findings, I have decided to exercise my statutory discretion and preliminarily consent to the extension of certain deadlines of compliance contingent upon the successful negotiation and agreement between the company and the United States of Federal judicial decrees containing the provisions required by Section 113(e)(1)(C). This exercise of my discretion is entirely contingent upon such successful negotiation and should the parties be unable to frame a complete and total agreement, then no such extensions shall be granted.

In particular, I hereby give my preliminary consent to the entry of proper decrees which require capital expenditures to be made on the schedule reflected in my finding number (5) above to the extent possible. The negotiation of such decrees is underway and decrees may be presented to me for my review in the next few weeks. Intervenors in the existing decrees are being notified of these preliminary findings and provided opportunity for participation in the negotiation of modifications. Any persons wishing to comment on these preliminary findings should do so without delay. Comments should be sent to Michael Alushin (EN-329), Office of Legal and Enforcement Counsel, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460. Telephone: (202) 382-2820.

Notice is hereby given that in the event of successful negotiation and agreement between the company and the United States of such Federal decrees, such decrees will be lodged and public commentary provided for under the provisions of 28 CFR 50.7 by Federal Register publication by the Department of Justice without any further Federal Register notice on behalf of the Environmental Protection Agency.

Dated: August 10, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

[FR Doc. 82-22343 Filed 8-16-82; 845 am]

BILLING CODE 6560-50-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Report Forms Under OMB Review; Request for Comments

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission. The proposed form under review is listed below.

DATE: Comments must be received on or before September 17, 1982. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

EEOC Agency Clearance Officer: Thomas P. Goggin, Office of Administration, Room 3230, 2401 E Street, NW., Washington, DC 20506; Telephone (202) 634-6983.

OMB Reviewer: Richard Eisinger, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503; Telephone (202) 395-6880.

Type of Request—Extension (Decrease in Burden)

Title: Request for Systemic Investigation.

Form Number: EEOC FORM 363.

Frequency of Report: On Occasion.

Type of Respondent: Individuals or households, business/other institutions.

Standard Industrial Classification (SIC) Code: All.

Description of Affected Public: Individuals and organizations concerned with equal employment opportunity.

Responses: 300.

Reporting Hours: 75.

Federal Cost: $15,000.

Applicable under Section 3504(h) of Public Law 96-511: Not applicable.

Number of Forms: 1.

Abstract—Needs/Uses: This form is intended to assist members of the public in providing the necessary information when they request the Commission to initiate a systemic investigation of possible employment discrimination under title VII of the Civil Rights Act of 1964.

Dated: August 9, 1982.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 82-22312 Filed 8-16-82; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 7, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T–4008–1.

Filing party: Mr. John E. Nolan, Assistant Port Attorney, Port of Oakland, P.O. Box 2064, 66 Jack London Square, Oakland, California 94604.

SUMMARY: Agreement No. T–4008–1 between the Port and MTC whereby the Port assigned to MTC the responsibility of management and the provision of terminal operating and cargo solicitation services for Berths G, H, I and J of the Port's Seventh Street Marine Terminal. Agreement No. T4008–1 provides for MTC's retention of an additional 10 percent of gross dockage and wharfage tariff revenues which accrue for each long-term terminal user line that has submitted to the Port in a form satisfactory to the Port a letter of intention to utilize the terminal as its published regularly scheduled Northern California port of call for a period of 5 years or for the then remaining term of Agreement No. T–4008. The 10 percent retention provision does not apply to revenues from long-term users of the terminal who have entered into user agreements directly with the Port.

Agreement No.: T–4056.

Filing party: Mr. H. H. Wittren, Associate Director of Real Estate, Leasing, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

SUMMARY Agreement No. T–4056, between the Port of Seattle (Port) and Sea-Land Service, Inc. (Sea-Land), provides for the month-to-month lease of 184,114 sq. ft. of land located at Terminal 107, Seattle, Washington. The leased premises will be used for the storage of Sea-Land's chassis and empty containers. As compensation, Sea-Land will pay Port $7,364.56 per month. Pending approval of the agreement by the Commission, Sea-Land will be assessed rent pursuant to Port tariffs. Upon approval by the Commission, Sea-Land will pay rent pursuant to the lease. This agreement cancels and supersedes a prior month-to-month lease between the parties.

Dated August 12, 1982.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82–22313 Filed 8–16–82; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Canton Bancshares, Inc.; Proposed Acquisition of Fairview Insurance Agency; Correction

This notice corrects a previous Federal Register document (FR Doc. 82–19107), published at page 30871 of the issue for July 15, 1982. Canton Bancshares, Inc., Canton, South Dakota has also filed an application pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4 of the Board's Regulation Y (12 CFR 225.4(b)(2)) for permission to acquire the net assets of Fairview Insurance Agency, Canton, South Dakota.

Applicant states that the proposed subsidiary would engage in general insurance activities in a community with a population not exceeding 5,000 persons. These activities would be performed from offices of Applicant's subsidiary in Canton, Fairview, and Worthing, South Dakota, and the geographic area to be served is Lincoln County, South Dakota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with procedures of § 225.4(b).

This application may be inspected at the Federal Reserve Bank of Minneapolis. Comments on this application should be submitted in writing to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and must be received not later than August 31, 1982.

Board of Governors of the Federal Reserve System, August 12, 1982.

Delores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82–22306 Filed 8–16–82; 8:45 am]

BILLING CODE 6210–01–M

Formation of Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated for the application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Second National Bancorp,* Lexington, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The Second National Bank and Trust Company of Lexington, Lexington, Kentucky. Comments on this application must be received not later than September 8, 1982.

Board of Governors of the Federal Reserve System, August 11, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82–22307 Filed 8–16–82; 8:45 am]

BILLING CODE 6210–01–M

GENERAL SERVICES ADMINISTRATION

Nondiscrimination in Federally Assisted Programs, Civil Rights Enforcement Program

AGENCY: General Services Administration.

ACTION: Request for comments.

SUMMARY: The General Services Administration (GSA) has developed an Implementation Plan [1] as required by Executive Order 12250, Section 1–403. The plan describes how GSA intends to meet its enforcement responsibilities regarding nondiscrimination in Federally Assisted Programs.

DATE: Comments should be submitted by October 18, 1982.

ADDRESS: Comments should be submitted to: General Services Administration, Office of Civil Rights (HO), 18th and F Streets, NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas E. Henderson, 202–566–1368.

SUPPLEMENTARY INFORMATION: Persons interested in submitting comments on GSA's implementation plan may request a copy by telephone or by writing to the address given above.

[1] The Implementation Plan was filed as a part of the original document.

Dated: July 29, 1982.

Jon R. Halsall,

Director of Organization and Personnel.

[FR. Doc 82-22314 Filed 8-16-82; 8:45 am]

BILLING CODE 6820-34-M

GENERAL SERVICES ADMINSTRATION

[(F-82-)24]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Nebraska Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority contained in the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly Sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Nebraska Public Service Commission involving the application of the Northwestern Bell Telephone Company for an increase in rates for telecommunications services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: August 6, 1982.

Frank J. Carr,

Commissioner, Automated Data and Telecommunications Service.

[FR Doc. 82-22463 Filed 8-16-82; 8:45 am]

BILLING CODE 6820-25-M

[F-82-23]

Delegation of Authority to Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Mississippi Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority contained in the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly Sections 201 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Mississippi Public Service Commission involving the application of the South Central Bell Telephone Company for an increase in rates for telecommunications services. The authority delegates to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officer, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: August 6, 1982.

Frank J. Carr,

Commissioner, Automated Data and Telecommunications Service.

[FR Doc. 82-22464 Filed 8-16-82; 8:45 am]

BILLING CODE 6820-25-M

[E-82-22]

Delegation of Authority to Secretary of Defense and the Administrator of Veterans Affairs

1. *Purpose.* This delegation authorizes the Secretary of Defense and the Administrator of Veterans Affairs to jointly manage and approve Federal standardization documents in Federal Supply Group 65—Medical, Dental, and Veterinary Equipment and Supplies. Under this delegation, the Secretary of Defense and the Administrator of Veterans Affairs are jointly responsible for performing those functions prescribed in FPMR 101-29 for Federal standardization documents for medical, dental, and veterinary equipment and supplies.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, authority is hereby delegated to the Secretary of Defense and the Administrator of Veterans Affairs to jointly manage and approve Federal standardization documents for medical, dental, and veterinary equipment and supplies and to develop required procedures for use in performing these functions.

b. The Secretary of Defense and the Administrator of Veterans Affairs may redelegate this authority to the officers or emloyees of the Department of Defense and the Veterans Administration.

c. This delegation may be rescinded by the General Services Administration upon 60 days prior notice to the Secretary of Defense and the Administrator of Veterans Affairs.

Dated: July 26, 1982.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 82-22461 Filed 8-16-82; 8:45 am]

BILLING CODE 6820-24-M

[Intervention Notice 150]

Proposed Intervention in Electric Rate Increase Proceeding; Potomac Electric Power Company, Public Service Commission of the State of Maryland, Case No. 7662

The General Services Administration (GSA) seeks to intervene in Case No. 7662, a proceeding before the Public Service Commission of the State of Maryland concerning the application of the Potomac Electric Power Company for an increase in its electric rates. GSA represents the interest of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to John L. Stanberry, Assistant Commissioner, Office of Public Utilities, General Services Administration, Washington, D.C. (mailing address: General Services Administration (TU), Washington, D.C. 20406), 202-275-1027, by September 16, 1982, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry

shall not serve to make persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4)))

Dated: August 9, 1982.

Allan W. Beres,

Commissioner, Transportation and Public Utilities Service.

[FR Doc. 82-22460 Filed 8-16-82; 8:45 am]

BILLING CODE 6820-AM-M

[E—82-21]

Delegation of Authority to Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Texas Public Utility Commission involving electric rates, Docket No. 4620.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in the Administrator of General Services by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Texas Public Utility Commission involving the application of the El Paso Electric Company for an increase in its electric rates, Docket No. 4620.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: August 9, 1982.

Allan W. Beres,

Commissioner, Transportation and Public Utilities Service.

[FR Doc. 82-22462 Filed 8-16-82; 8:45 am]

BILLING CODE 6820-AM-M

[E-82-20]

Delegation of Authority to Secretary of Energy

1. *Purpose.* This delegation authorizes the Secretary of Energy to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Texas Public Utility Commission involving electric rates, Docket No. 4540.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in the Administrator of General Services by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Energy to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Texas Public Utility Commission involving the application of the Houston Lighting and Power Company for an increase in its systemwide retail electric rates, Docket No. 4540.

b. The Secretary of Energy may redelegate this authority to any officer, official, or employee of the Department of Energy.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Energy shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Energy filings.

Dated: July 27, 1982.

Allan W. Beres,

Commissioner, Transportation and Public Utilities Service.

[Fr Doc. 82-22465 Filed 8-16-82; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA-225-82-4001]

Advanced Records System Telecommunication Equipment; Memorandum of Understanding With the New York State Department of Health

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the New York State Department of Health. The purpose of the memorandum is to establish the procedures and guidelines for the operation, maintenance, and protection of FDA's Advanced Records System telecommunication equipment located in Albany.

EFFECTIVE DATE: June 9, 1982.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC-50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1580.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)) stating that all agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing the following memorandum of understanding:

Memorandum of Understanding Between the New York State Department of Health and the Food and Drug Administration, Department of Health and Human Services

I. Purpose

This Memorandum of Understanding establishes the procedures and guidelines for the operation, maintenance, and protection of the Food and Drug Administration (FDA) Advanced Records System (ARS) telecommunication equipment located at the following address: New York State Department of Health, Bureau of Food Protection, Rm. 421, Tower Bldg., Empire State Plaza, Albany, NY 12237.

II. Background

FDA has installed telecommunication transmission and receiving terminals at State agencies that have regulatory responsibilities at the State level comparable to FDA's responsibilities at the Federal level. These terminals are generally placed at the agency that has the primary responsibility for regulating food and drugs in that State.

III. Substance of the Agreement

A. The Food and Drug Administration agrees:

1. To pay the cost of initial installation of the equipment and the relocation installation costs if the relocation is in conjunction with a move of the New York State Department of Health (NYSDH) to a new address.

2. To pay the monthly rental cost directly to the General Services Administration and Western Union.

3. To make arrangements with Western Union for the training of terminal operators.

B. The New York State Department of Health agrees:

1. To provide a suitable physical location with adequate security for the equipment.

2. To provide and pay for electric power to operate the terminal (110 volts).

3. To pay for any equipment relocation costs, except those in conjunction with a move of the NYSDH to a new address.

4. To provide paper, tape, and other material necessary for the operation of the equipment.

5. To submit a monthly traffic log to the FDA Regional Office (form to be furnished by FDA).

6. To maintain operator coverage for the terminal during the normal working hours of NYSDH.

7. To notify vendor (Western Union) of any breakdown of the equipment or other need for maintenance.

8. To notify FDA (Region II or Headquarters) of periods that the equipment is out-of-service.

9. To use the system only for communication between NYSDH and FDA (Regional, District or Headquarters Offices).

IV. Name and Address of Participating Agencies

A. New York State Department of Health, Tower Bldg., Empire State Plaza, Albany, NY 12237.

B. Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

V. Liaison Officers

A. For New York State Department of Health: Director, Bureau of Food Protection (currently, Albert T. Squire), Rm. 421, Tower Bldg., Empire State Plaza, Albany, NY 12237, 518–474–3291.

B. For Food and Drug Administration: Director, Buffalo District Office (currently, E. P. Smith), Food and Drug Administration, 599 Delaware Ave., Buffalo, NY 14202, 716–846–4478.

VI. Period of Agreement

This agreement, when accepted by both parties, will be effective until terminated. It may be modified by mutual consent or terminated by either party upon a 30-day advance notice to the other.

Approved and Accepted for the New York State Department of Health.

Albert T. Squire,

Director, Bureau of Food Protection.

Dated: November 30, 1981.

Approved and Accepted for the Food and Drug Administration.

E. Pitt Smith,

Director, Buffalo District.

Dated: June 9, 1982.

Effective date. This Memorandum of Understanding became effective June 9, 1982.

Dated: August 10, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–22193 Filed 8–16–82; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (a) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Clinical Toxicology Section of the Clinical Chemistry and Hematology Devices Panel

Date, time, and place. September 9, 9 a.m., Rm. 1207, 8757 Georgia Ave., Silver Spring, MD.

Type of meeting and panel section leader. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Srikrishna Vadlamudi, Bureau of Medical Devices (HFK–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before August 25 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss an in vitro radioreceptor assay for measuring dopamine receptor blocking activity of neuroleptic drugs and their active metabolites in serum or plasma: Reclassification petition #F820003, Receptan-N, Burroughs Wellcome Co., for reclassification from class III to class II.

General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel

Date, time, and place. September 9, 9 a.m., Rm. 430A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and panel section leader. Open public hearing, September 9, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4:30 p.m.; Nirmal K. Mishra, Bureau of Medical Devices (HFK–410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7156.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before September 2 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss comments received in response to the classification proposals including those for breast prostheses, wound dressings, cryosurgical devices, and surgical sutures, which were published in the Federal Register of January 19, 1982 (47 FR 2810–2853).

Blood Products Advisory Committee—Workshop on the Molecular Integrity of Plasma- and Cell-Derived Products

Date, time, and place. September 23 and 24, 8:30 a.m., Lister Hill Center Auditorium, Bldg. 38A, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, September 23, 8:30 a.m. to 5 p.m. and September 24, 8:30 a.m. to 3 p.m.; open committee discussion, September 24, 3 p.m. to 4 p.m.; Clay Sisk, National Center for Drugs and Biologics (HFB–5), Food and Drug Administration, Bldg. 29, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–5455.

General function of the committee. The committee reviews and evaluates data on the safety, effectiveness, and appropriate use of blood products intended for use in the diagnosis,

prevention, or treatment of human diseases.

Agenda—Open public hearing. This portion of the meeting will be held in conjunction with the Division of Blood and Blood Products, Office of Biologics-sponsored workshop on the molecular integrity of plasma- and cell-derived products. The program includes presentations by research scientists from the Office of Biologics and by invited speakers. Topics on September 23 will relate to the molecular integrity of the constituent proteins in plasma-derived products such as Albumin, Plasma Protein Fraction, and immunoglobulin preparations with emphasis on laboratory analytical methods. Topics on September 24 will highlight potential methods of quality control testing for cell-derived immunoglobulins (monoclonal antibodies). Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will consider the blood product regulations in 21 CFR Part 600 to identify if any of those provisions should be considered for modification in view of the new technology, as discussed at the meeting, with emphasis on scientific issues relating to safety, purity, and potency of current and pending plasma- and cell-derived biologicals.

Oncologic Drugs Advisory Committee

Date, time, and place. September 30, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, 9 a.m. to 4 p.m.; open public hearing, 4 p.m. to 5 p.m.; Lee Ripper, National Center for Drugs and Biologics (HFD–150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5197.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational prescription drugs for use in the field of oncology.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss (1) the approvability of Bristol Laboratories' ETOPOSIDE (VP–16) for the treatment of refractory testicular tumors and small cell anaplastic lung tumors; (2) the approvability of Mead Johnson's IFEX (ifosfamide) for the palliative treatment of epidermoid (squamous) adenocarcinoma and large cell lung cancer; (3) the approvability of Lilly Research Laboratories' ELDISINE (vindesine sulfate) for the treatment of children with acute lymphoblastic leukemia in bone marrow relapse who no longer respond to ONCOVIN (vincristine sulfate); (4) the approvability of Lederle Laboratories' Methotrexate for the treatment of advanced non-Hodgkins lymphoma with an unfavorable histology at a dosage schedule of 3 grams per square meter followed by leucovorin calcium at 10 milligrams per square meter starting 24 hours after methotrexate administration then every 6 hours for 12 doses or as part of the M–BACOD regimen (cycles of bleomycin, doxorubicin, cyclophosphamide, vincristine sulfate, and dexamethasone alternating with 3 grams per square meter methotrexate and leucovorin calcium); and (5) revision of the guidelines for the clinical evaluation of antineoplastic drugs.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: August 9, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–22192 Filed 8–16–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket Nos. 77P–0403 et al.]

Availability of Approved Variances for Laser Light Shows

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that variances, amendments of variances, or extensions of variances from the performance standard for laser products have been approved by the Bureau of Radiological Health for 41 organizations that manufacture and produce laser light shows, laser light show projectors, or both the light show and projector. The projector provides a laser display to produce a variety of special lighting effects. The principal use of these products is to provide entertainment to general audiences.

DATES: The effective dates and termination dates of the variances are listed in the table under "SUPPLEMENTARY INFORMATION."

ADDRESS: The applications and all correspondence relating to them have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4), each of the 41 organizations listed in the table below

has been granted a variance from § 1040.11(c) (21 CFR 1040.11(c)) of the performance standards for laser products. The variances permit the listed manufacturer to introduce into commerce a demonstration laser product which is its particular variety of laser light show, laser light show projector, or both, assembled and produced by the manufacturer. Each of the demonstration laser products is intended for a special purpose which cannot be performed or accomplished with equipment meeting the standard. Each has levels of accessible laser radiation in excess of Class II levels but not exceeding those required to perform the intended function of the product. The standard does not permit demonstration laser products to have accessible laser radiation in excess of the limits of Class II, but terms of these variances waive that prohibition as to all 41 light shows.

Under other terms of these variances, suitable means of radiation protection are to be provided by constraints on the physical and optical design, by warnings in the user manual and on the product, and by procedures for personnel who will operate the products.

To associate each product with the variance approved for the manufacturer of that product, each product shall bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)) the docket number and effective date of the variance as specified in the table below. By letter to each manufacturer, the Director of the Bureau of Radiological Health approved the requested variances.

Where existing variances are extended, the Director has found that the reasons initially given to justify them still apply. Where existing variances are amended, the Director has found that, although previously given justifications are still valid, other factors permit or require imposition of new terms for continuing the variances.

APPROVED VARIANCES

Docket No.	Manufacturing organization	Demonstration laser product	Effective date and termination date
77P-0403 (extension)	Eye See The Light Show, Inc., Box 742, East Lansing, MI 48923.	Eye See The Light Show projectors, Models 20001 and Orion, and laser light shows incorporating these projectors.	May 1, 1982, May 1, 1984.
78P-0148 (extension)	Laser Media Inc., 2046 Armacost Ave., Los Angeles, CA 90025	Laser Media LM and LMS Series projectors and shows	May 6, 1982, May 6, 1984.
78P-0295 (extension)	Science Faction Corp., 333 W. 52nd St., New York, NY 10019	Class III or IV Science Faction SFC-2000 Series laser light show projectors and laser light shows.	May 16, 1982, May 16, 1984.
78P-0419 (amendment).	Ugly Duckling Laser Shows, 2300 St. Francis Dr., Palo Alto, CA 94303.	Laser light shows incorporating Ugly Duckling laser projectors Models HS-1, SFP-1, CH-1, S.S. 4000, and/or S.S. 40001.	Mar. 18, 1982. Mar. 18, 1984.
79P-0055 (extension and amendment).	Audio Visual Imagineering, Inc., 7953 Twist Lane, Springfiled, VA 22153.	AVI laser projection system Model AK-1400 and shows incorporating AVI laser projection system Model AK-1400.	Mar. 18, 1982, Mar. 19, 1984
79P-0122 (amendment).	Mark Smith Planetarium, Museum of Arts and Sciences, 4182 Forsyth Rd., Macon, GA 31210.	Laser light show products incorporating Class IIIb He-Ne lasers	Nov. 6, 1982, Nov. 6, 1984.
79P-0346 (extension and amendment).	Laservision Productions, Inc., 72-1 Shawnee Ave., Yonkers, NY 10710.	Laservision Productions, Inc., laser light shows incorpating the firm's Class IV Model ALVA 2000 series and/or IKON L-174 series laser projectors or display devices.	May 17, 1982, May 19, 1984.
79P-0385	Richard Lefrak, (dba T.L.C. (The Laser Co.)), P.O. Box 983, San Francisco, CA 94101.	The Richard Lefrak dba T.L.C. laser light shows and the incorporated Richard Lefrak Model Series LLS 9000 and LLS 3000K laser projectors.	Apr. 16, 1982, Apr. 16, 1984.
79P-0462 (amendment).	Laser Systems, Development Corp., 17 E. Bijou St., Colorado Springs, CO 80903..	Class III or IV laser projection system Model R-2 and the C-3 Model Series and laser light shows.	Nov. 19, 1982, Aug. 20, 1984.
80P-0037 (extension and amendment).	School of Music, University of Iowa, Iowa City, IA 52242	VIDEO/LASER Project Class IV laser projectors and the laser light shows.	Mar. 26, 1982, May 1, 1984, Apr. 30, 1982, May 1, 1984.
80P-0100 (extension)	Coherent Innovations, Inc., Norstar Theatre, Hamm Bldg., 28 W. 7th St., St., St. Paul, MN 55102..	Coherent Innovations laser light show and the Class IV "RAINBOW" projectors.	June 6, 1982, June 6, 1984.
80P-0153 (extension)	Projected Imagery, Inc., 311 Arapaho Central Park, Richardson, TX 75080.	Laser light shows incorporating Class IIIb or IV Argon, Krypton, or Helium-Neon laser projectors, Models MC-3 MCGI, AP-I, and HN-I.	June 10, 1982, June 10, 1984.
80P-0215 (extension)	Metatron Laser Art, 3391 Snively Ave., Santa Clara, CA 95015	Laser projector Model M.L. 95-5K and laser light shows incorporating the projector Model M.L. 95-5K.	Feb. 8, 1982, Feb. 8, 1984.
81P-0058	BTSD Music Productions, Inc., George's Law Offices, Central Trust Tower, Canton, OH 44702.	Laser light show incorporating the Class III helium-neon Jeffrey B. Meade Orthogonal Lasser Projector Model 21558, with a peak power of 20 mW.	July 7, 1981, July 7, 1983.
81P-0169	Dalcor Amusement Corp., (dba Funtown, U.S.A.) Funtown, U.S.A., Saco, ME 04072.	Laser light show utilizing an Electronic Counter Co. projection device Model Stick-03.	May 29, 1981, May 29, 1983.
81P-0194	Avents Entertainment Corp., (dba The Metro), 15 Landsdowne St., Boston, MA 02215.	The Metro Laser Show produced by Avents Entertainment Corp. by means of the incorporated Class IV Science Faction SFC-2001-SFX-LR-LC projector and Lexel 95-4 argon laser.	July 8, 1981, July 8, 1983.
81P-0195	Laserdream Productions, 3318 Hancock St., San Diego, CA 92110.	Laser light show incorporating the Personal Laser Projector #0002 and/or Electronic Counter Co. Model #3600.	July 29, 1981, July 29, 1983.
81P-0232	Dancin' Machine, 256 S. Robertson Blvd., Beverly Hills, CA 90211.	Laser light show (by David Cross at the Playboy Club, Los Angeles) incorporating the Class IV Laser Media Model LMS Argon Laser Projector.	Sept. 8, 1981, Sept. 28, 1982.
81P-0249	7-9 Lansdowne Corp., (dba The Pipeline), 9 Lansdowne St., Boston, MA 02215.	The Pipeline laser light show incorporating the Image Engineering Model 300 Series or other similar laser projectors.	Sept. 23, 1981, Sept. 23, 1983.
81P-0264	LASERWORLD, Inc., 46 N. Orange Ave., Orlando, FL 32802	Laser light show incorporating Coherent Innovations Laser Projector Model Rainbow 3AK.	Sept. 9, 1982, Sept. 9, 1983.
81P-0285	Columbia Museums of Art and Science, Gibbes Planetarium, 1112 Bull St., Columbia, SC 29201.	Laser Light Show incorporating a Class IIIb Spectra Physics helium-neon laser.	Sept. 23, 1981, Sept. 23, 1982.
81P-0294	Hyatt Corp., (dba Hyatt Regency-Woodfield), 1800 E. Golf Rd., Schaumberg, IL 60195.	laser light show performed at "The Playground" incorporating a Laser Media Model LMS projector.	Oct. 23, 1981, Oct. 23, 1983.
81P-0325	Place Entertainment Center, (dba Star Palace), 501 N. 900 E., Provo, UT 84601.	Star palace laser light show incorporating a Laser Media laser projector Model LMS and a Class IV ion laser, Control Laser Model 554.	Dec. 14, 1981, Dec. 14, 1982.
81P-0361	Siegfried and Roy Entertainment, Inc., 3950 Las Vegas Blvd. South, Las Vegas, NV 89119.	"Beyond Belief" laser light show, incorporating the Laser Media LMS projector.	Feb. 1, 1982, Feb. 1, 1984.
81P-0372	Zafaun Enterprises, 140 Linden St., Suite #727, Long Beach, CA 90802.	Laser light show incorporating a 5.5 mW laser projection device	Jan. 19, 1982, Jan. 19, 1984.
81P-0389	Laser Affiliates/L.A.S.E.R., 973 Page St., San Francisco, CA 94117.	Laser light show incorporating Class II and/or Class III Helium-Neon, Argon, Helium-Cadmium, and Krypton Lasers.	Dec. 8, 1981, Dec. 8, 1982.
81P-0411	Hayden Gallery, M.I.T., 77 Massachusetts Ave., Cambridge, MA 02139.	Laser light show incorporating Hayden Gallery mixed gas and dye laser systems.	Dec. 30, 1981, Dec. 30, 1982.
81P-0412	M.I.T. Center for Advanced Visual Studies, 40 Massachusetts Ave., Cambridge, MA 02139.	Laser light show incorporating M.I.T.'s Outdoor Argon Projection System.	Dec. 30, 1981, Dec. 30, 1983.
82P-0007	Memphis Pink Palace Museum Foundation, Inc., 3050 Central Ave., Memphis, TN 38111.	Laser light show incorporating the Pink Palace 265 Laser Projector using argon, krypton, and helium-neon lasers.	Jan. 19, 1982, Jan. 19, 1984.

APPROVED VARIANCES—Continued

Docket No.	Manufacturing organization	Demonstration laser product	Effective date and termination date
82P-0012	Spectrum, Inc., 3030 Orange Ave., Santa Ana, CA 92707.	"Euphoria" laser light show incorporating an InterScience Technology Model 430 argon and krypton laser projector.	Feb. 2, 1982, Feb. 2, 1984.
82P-0024	Sculptured Light by Fontes, 22739 First St., Haywood, CA 94541.	Sculptured Light 4553 Class III helium-neon laser projector and laser light shows or displays.	June 3, 1982, June 3, 1984.
82P-0042	D.W.W.B. Enterprises, Inc., (dba Krystal's), 7110 Henry Clay Blvd., Liverpool, NY 13088.	Laser light show incorporating a Science Faction Corp. SFC-2002-HS2-SFX2-LC2-LR Scanning System which in turn incorporates a Lexel 95-2 Class IV Argon Laser.	Mar. 18, 1982, Mar. 18, 1984.
82P-0051	Bifrost Technical Effects, 6406 Farmdale Ave., North Hollywood, CA 91606.	Laser light show incorporating the Class IV Bifrost Lasergraph #2 Laser Projector.	Mar. 3, 1982, Mar. 3, 1984.
82P-0060	University of Nevada Reno, (dba Fleischmann Atmospherium/ Planetarium), Reno, NV 89557.	Laser light shows incorporating a Laser Images Mark VI/600 Series Krypton Laser Projector.	Mar. 18, 1982, Mar. 18, 1984.
82P-0081	Santa Cruz Seaside Co., 400 Beach St., Santa Cruz, CA 95060	Laser Light Shows assembled and produced in the Laser Space Theater by Santa Cruz Seaside Co. incorporating a Class IIIb krypton laser in a Laser Presentations LP-4 projector.	Mar. 18, 1982, Mar. 18, 1984.
82P-0090	Holographic Research and Integration, 135 S.E. 46th St., Topeka, KS 66609.	Laser light show incorporating the Class IV Laser Projector Model 1.	Mar. 18, 1982, Mar. 18, 1984.
82P-0097	Random Electronics Design, Ltd., Laser Division, 2-8-16 Shinjuku, Shinjuku-Ku, Tokyo, Japan 160.	Laser light shows and the incorporated Laser Media Model LMS Series laser projector containing a Class IV argon laser and a Class III helium-neon laser.	Apr. 6, 1982, Apr. 6, 1984.
82P-0105	Tau Beta Pi Association, Inc., California Epsilon Chapter, 4800 W. and 5900 W. Boelter Hall, UCLA Campus, CA 90024.	LASERAMA Laser Light Show, Model Number 1982, and the projector incorporated in this show.	Apr. 8, 1982, June 8, 1982.
82P-0106	Triton College, 2000 N. 5th Ave., River Grove, IL 60171	Triton College laser light show incorporating a krypton ion Class III Laser Presentations Model LP-IW4P laser projector.	Apr. 5, 1982, Apr. 5, 1984.
82P-0110	Laser Productions of San Diego, P.O. Box 28791, San Diego, CA 92128.	Laser light show and the incorporated laser projection system	Apr. 30, 1982, Apr. 30, 1984.
82P-0118	J. Douglas Falk Engineering, 186 Paul Ct., Hillsdale, NJ 07642	Groundstar series laser projectors, laser light sculpture projectors and laser light shows.	Apr. 30, 1982, Apr. 30, 1984.

In accordance with § 1010.4, the applications and all correspondence, including the written notices of approval, on the various applications have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-22232 Filed 8-16-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N-0096; DESI No. 12152]

Drug Efficacy Study Implementation; Revocation of Exemption for an Effective Reformulated Oral Prescription Drug for Cough, Cold, or Allergy ("Paragraph XIX/Category 15"); Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: FDA revokes the temporary exemption for Ornade Spansules. The exemption has permitted the product to remain on the market beyond the time limit scheduled for implementation of the Drug Efficacy Study. FDA announces the conditions for marketing this product, as now reformulated, for the indication for which it is now regarded as effective, and offers an opportunity for a hearing concerning the old formulation and indications reclassified to lacking substantial evidence of effectiveness.

DATES: Revocation of exemption effective August 17, 1982. Hearing requests due on or before September 16, 1982; supplement to the approved new drug application and data in support of hearing requests due on or before October 18, 1982.

ADDRESSES: Communications in response to this notice should be identified with Docket No. 82N-0096, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplement to the full new drug application (identify with NDA number): Division of Surgical-Dental Drug Products (HFD-160), Rm. 18B-08, National Center for Drugs and Biologics.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), National Center for Drugs and Biologics.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), National Center for Drugs and Biologics.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFI-35), Rm. 12A-12.

Requests for hearing, supporting data, and other comments: Dockets Management Branch (HFA-305), Rm. 4-62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), National Center for Drugs and Biologics.

FOR FURTHER INFORMATION CONTACT: David T. Read, National Center for Drugs and Biologics (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** on July 8, 1972 (37 FR 13489), FDA classified Ornade Spansules as less-than-effective for its labeled indications.

Subsequently, in a notice published in the **Federal Register** of December 14, 1973 (38 FR 34481), FDA granted a temporary exemption from the time limits established for completing certain phases of the drug efficacy study (DESI) program, for certain oral prescription drugs offered for relief of cough, cold, allergy, and related symptoms. That exemption covered Ornade Spansules and superseded the notice of July 1972. The exemption was granted because of the close relationship between drugs sold over the counter (OTC)—and thus subject to the ongoing OTC drug review (21 CFR Part 330)—and prescription drugs offered for relief of cough, cold, allergies, and related symptoms.

Postponement of final evaluations on the DESI prescription products enabled the agency to consider the recommendations of the OTC drug review panel in addition to any evidence submitted by NDA holders in response to various DESI notices covering relevant products. These recommendations and a proposed monograph for over-the-counter cold, cough, allergy, bronchodilator, and antiasthmatic (CCABA) drugs were published in the **Federal Register** of September 9, 1976 (41 FR 38312).

Ornade Spansules, as formulated during the early DESI reviews, was a 3-ingredient product containing chlorpheniramine maleate (8 milligrams (mg)) phenylpropanolamine hydrochloride (50 mg), and isopropamide (2.5 mg). It has recently been reformulated to delete the isopropamide and modify the strengths of the other two ingredients. On the basis of additional data and information submitted, and the recommendations of the OTC drug review panel, the Director of the National Center for Drugs and Biologics has determined that the reformulated 2-ingredient product (NDA 12–152) is effective for the indication described below in section B.

NDA 12–152: as it pertains to Ornade Spansules, a controlled release product now containing 12 mg chlorpheniramine maleate and 75 mg phenylpropanolamine hydrochloride; Smith Kline and French Laboratories, 1500 Spring Garden St., P.O. Box 7929, Philadelphia, PA 19101.

No clinical studies were submitted for the previous 3-ingredient formulation and it is now classified as lacking substantial evidence of effectiveness for its labeled indications.

The temporary exemption announced in the December 14, 1973 notice, as it pertains to any drug product of either composition given above, is hereby revoked. This drug is regarded as a new drug (21 U.S.C. 321(p)) and an approved new drug application is required for marketing it. A supplemental new drug application is now required to revise the labeling in and to update the previoulsy approved application providing for this drug. This notice does not prevent FDA from including any ingredient in any future OTC drug monograph and requiring labeling different from that approved fro prescription use.

In addition to the holder of the new drug application specifically named above, this notice applies to any person who manufactures or distributes a drug product that is not the subject of an approved new drug application and that is identical to the drug product named above. It may also be applicable, under 21 CFR 310.6, to a related or similar drug product that is not the subject of an approved new drug application. (This notice does not apply to OTC drugs. 21 CFR 310.6(f).) It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug product, as reformulated, is effective for the indication in the lableing conditions below. The drug product lacks substantial evidence of effectiveness in its old formulation, and for other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications for the formulation now regarded as effective and a supplement to the previously approved new drug application under conditions described herein.

1. *Form of drug.* The preparation is a controlled release capsule suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indication is as follows: For the treatment of the symptoms of seasonal and perennial allergic rhinitis, and vasomotor rhinitis, including nasal obstruction (congestion).

3. *Marketing Status.* a. Marketing the drug product that is now the subject of an approved or effective new drug application may be continued provided that, on or before October 18, 1982, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) containing full information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) must be obtained before marketing such products. The bioavailability regulations (21 CFR 320.21) require any person submitting a full or abbreviated new drug application after July 7, 1977, to include either evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. Bioavailability data will not be waived for controlled release dosage forms. Marketing drug products before approval of a new drug application will subject those products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the National Center for Drugs and Biologics is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, that meets the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5) and 21 CFR 300.50, and demonstrates the effectiveness of the drug product's old formulation for any of its labeled indications, or the drug product's new formulation in indications for prescription use not referred to in paragraph B.2.b., above.

Notice is given to the holder of the new drug application, and to all other interested persons, that the Director of the National Center for Drugs and Biologics 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 new drug application and all amendments and supplements thereto providing for the formulation and indications lacking substantial evidence of effectiveness on the ground that new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, shows there is a lack of substantial evidence that the drug product will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. The application has already been supplemented to provide for the reformulated product. If no hearing is requested, and the application is further supplemented, in accord with this notice, to delete the claims lacking substantial evidence of effectiveness, approval of both the previous

formulation and the indications that lack evidence of effectiveness will be considered withdrawn, and no further order will issue.

This notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated under it (21 CFR Parts 310, 314), the applicant and all other persons who manufacture or distribute a drug product that is identical, related, or similar to the drug product named above (21 CFR 310.6) and not the subject of a new drug application, are hereby given an opportunity for a hearing to show why approval of the new drug application should not be withdrawn, and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product named above and of all identical, related, or similar drug products not the subject of a new drug application.

The applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before September 16, 1982, a written notice of appearance and request for hearing, and (2) on or before October 18, 1982, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a granting or denial of a hearing, are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice under 21 CFR 310.6 to file a timely written notice of appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed, and a waiver of any contentions concerning the legal status of the relevant drug product. Any such drug product labeled for the indications referred to in this notice as lacking substantial evidence of effectiveness may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such a drug product from the market. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice are to be filed in four copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)), and under the authority delegated to the Director of the National Center for Drugs and Bioligics (21 CFR 5.70 and 5.82).

Dated: August 9, 1982.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 82-22197 Filed 8-16-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N-0220; DESI 7366]

Drugs for Human Use; Drug Efficacy Study Implementation; Revocation of Exemption for Four Oral Prescription Drugs Offered for Relief of Symptoms of Cough, Cold, or Allergy ("Paragraph XIV/Category 15") Which Contain Cyclopentamine Hydrochloride; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) revokes the temporary exemption for four oral prescription drug products offered for relief of symptoms of cough, cold, or allergy. The exemption has permitted the products to remain on the market beyond the time limit scheduled for implementation of the Drug Efficacy Study. These products all contain cyclopentamine hydrochloride. FDA reclassifies the products to lacking substantial evidence of effectiveness, proposes to withdraw approval of the new drug applications, and offers an opportunity for a hearing on the proposal.

DATES: Revocation of exemption effective August 17, 1982.

Hearing requests due on or before September 16, 1982.

ADDRESSES: Communications in response to this notice should be identified with Docket No. 82N-0220, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), National Center for Drugs and Biologics.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFI-35), Rm. 12A-12.

Requests for hearing, supporting data, and other comments: Dockets Management Branch (HFA-305), Rm. 4-62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), National Center for Drugs and Biologics.

FOR FURTHER INFORMATION CONTACT: David T. Read, National Center for Drugs and Biologics (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** on August 19, 1971 (36 FR 16128), FDA classified the drug products described below, as previously formulated, as less than effective for their labeled indications.

Subsequently, in a notice published in the **Federal Register** of December 14, 1973 (38 FR 34481), FDA granted a temporary exemption from the time limits established for completing certain phases of the drug efficacy study (DESI) program, for certain oral prescription drugs offered for relief of cough, cold,

allergy, and related symptoms. That exemption covered the drugs that are the subject of this notice and superseded the August 19, 1971 notice. The exemption was granted because of the close relationship between drugs sold over the counter (OTC)—and thus subject to the ongoing OTC drug review (21 CFR Part 330)—and prescription drugs offered for relief of cough, cold, allergies, and related symptoms. Postponement of final evaluations on the DESI prescription products enabled the agency to consider the recommendations of the OTC drug review panel in addition to any evidence submitted by NDA holders in response to various DESI notices covering relevant products. In the Federal Register of September 9, 1976 (41 FR 38312), FDA published those recommendations and a proposed monograph for over-the-counter cold, cough, allergy, bronchodilator, and antiasthmatic (CCABA) drugs. Except for chlorpheniramine maleate, an effective antihistamine, none of the active components of the drug products listed below were among those reviewed by the OTC drug review panel. The Director of the National Center for Drugs and Biologics concludes, therefore, that today's action is not inconsistent with any recommendations of the OTC drug review panel.

This notice revokes the temporary exemption announced in the Federal Register of December 14, 1973. It also proposes to withdraw approval of the new drug applications listed below and offers an opportunity for hearing on the proposal. Persons who wish to request a hearing may do so on or before September 16, 1982.

1. NDA 7–366: as it pertains to Hista-Clopane Pulvules, containing chlorpheniramine meleate and cyclopentamine hydrochloride; Eli Lilly & Co., 307 E. McCarty St., Indianapolis, IN 46285. (The original formulation contained methapyrilene hydrochloride and cyclopentamine hydrochloride.)

2. NDA 8–305: as it pertains to Co-Pyronil Pulvules and Pediatric Pulvules, containing pyrrobutamine phosphate and cyclopentamine hydrochloride; Eli Lilly & Co. (The original formulations for these products and Co-Pyronil suspension, contained a third ingredient, methapyrilene hydrochloride, subsequently deleted because of question of safety.)

3. NDA 9–234: Co-Pyronil Suspension, containing pyrrobutamine naphthalene disulfonate and cyclopentamine hydrochloride; Dista Products Co., Division of Eli Lilly & Co.

In the Federal Register of May 15, 1973 (38 FR 12769), FDA named cyclopentamine hydrochloride in a list of orally administered nasal decongestants that in combination with an antihistamine would be tentatively considered to be effective for vasomotor rhinitis and allergic rhinitis. This list, however, did not constitute a final classification. Its purpose was to propose interim guidelines for the formulation and labeling of prescription drugs indicated for cough and allergy, pending completion of the OTC drug review.

Chlorpheniramine (contained in Hista-Clopane) and Pyrrobutamine (contained in the Co-Pyronil products) are classified as effective antihistamines. (42 FR 44275 and 44273, September 2, 1977). However, no person has submitted clinical data demonstrating the effectiveness of orally administered cyclopentamine hydrochloride (contained in all the products losted above), alone or in combination, as a nasal decongestant. Therefore, the Director of the National Center for Drugs and Biologics concludes that the holder of the NDAs has not shown, for each of the products listed above, that each component makes a contribution to the claimed effects and that the dosage of each component is such that the combination is safe and effective for a significant patient population. 21 CFR 300.50. Therefore each of the products is reclassified to lacking substantial evidence of effectiveness.

In addition to the holder of the new drug applications specifically named above, this notice applies to any person who manufactures of distributes a drug product that is not the subject of an approved new drug application and that is identical, related, or similar (i.e., an orally administered drug product containing cyclopentamine hydrochloride) to a drug product named above, as defined in 21 CFR 310.6. (This notice does not apply to OTC drugs. 21 CFR 310.6(f).) It is the responsibility of every drug manufacturer and distributor to review this notice to determine whether it covers any durg product that the person manfactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

On the basis of all the data and information available to him, the Director of the National Center for Drugs and Biologics is unaware of any adequate and well-controlled clinical investigation, conducted by experts who are qualified by scientific training and experience, that meets the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5) and 300.50, and demonstrates the effectiveness of the drug products referred to in this notice.

Notice is given to the holder of the new drug applications, and to all other interested persons, that the Director of the National Center for Drugs and Biologics 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 new drug applications and all amendments and supplements thereto providing for the drug products referred to in this notice on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, shows there is a lack of substantial evidence that the drug products will have any of the effects they purport or are represented to have under the conditions of use precribed, recommended, or suggested in the labeling.

This notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act (21 CFR 355) and the regulations promulgated under it (21 CFR Parts 310, 314), the applicant and all other persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above (21 CFR 310.6) and not the subject of a new drug application, are hereby given an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products not the subject of a new drug application.

The applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing shall file (1) on or before September 16, 1982, a written notice of appearance and request for hearing, and (2) on or before October 18, 1982, the data, information,

and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice under 21 CFR 310.6 to file a timely written notice of appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed, and a waiver of any contentions concerning the legal status of the relevant drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug product from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice are to be filed in four copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the National Center for Drugs and Biologics (see 21 CFR 5.70, 5.82 and 47 FR 26913 published in the **Federal Register** of June 22, 1982.

Dated: August 9, 1982.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 82-22194 Filed 8-16-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81N-0333; DESI 12813]

Ophthalmic Combination Drug Containing Sodium Sulfacetamide, Prednisolone Acetate, Phenylephrine Hydrochloride, and Antipyrine; Drugs for Human Use; Drug Efficacy Study Implementation; Withdrawal of Approval

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice withdraws approval of those parts of a new drug application that provide for Blephamide Liquifilm Ophthalmic Suspension containing sodium sulfacetamide, prednisolone acetate, phenylephrine hydrochloride, and antipyrine. The basis for the withdrawal is that the fixed-combination drug product lacks substantial evidence of effectiveness. This notice does not apply to Blephamide Liquifilm Ophthalmic Suspension containing only sodium sulfacetamide and prednisolone acetate.

EFFECTIVE DATE: September 16, 1982.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with reference number DESI 12813 and directed to the Division and Drug Labeling Compliance (HFD–310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nicholas Reuter, National Center for Drugs and Biologics (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 21, 1982 (47 FR 22223), the Director of the Bureau of Drugs reclassified Blephamide Liquifilm Ophthalmic Suspension containing sodium sulfacetamide, prednisolone acetate, phenylephrine hydrochloride, and antipyrine as lacking substantial evidence of effectiveness as a fixed-combination drug product in that there was no evidence that the phenylephrine hydrochloride and antipyrine components contributed to the effects claimed for the drug. The Director also proposed to withdraw approval of pertinent parts of a new drug application that provide for this formulation and offered an opportunity for a hearing on the proposal.

Neither the holder of the new drug application nor any other interested person requested a hearing. Failure to file a notice of appearance and request for a hearing constitutes a waiver of the opportunity for a hearing. Accordingly, the Director of the National Center for Drugs and Biologics withdraws approval of pertinent parts of the following new drug application:

NDA 12–813 insofar as it provides for Blephamide Liquifilm Ophthalmic Suspension containing sodium sulfacetamide, prednisolone acetate, phenylephrine hydrochloride, and antipyrine; Allergan Pharmaceuticals, Inc., 2525 Dupont Dr., Irvine, CA 92713.

This notice does not apply to those parts of NDA 12–813 that provide for Blephamide Liquifilm Ophthalmic Suspension containing only sodium sulfacetamide and prednisolone acetate. This particular formulation has been classified as effective (see August 29, 1980 **Federal Register** (45 FR 57780) as amended May 18, 1982 (47 FR 21296)).

Any drug product that is identical, related, or similar to the product for which approval is being withdrawn and is not the subject of an approved new drug application is covered by the new drug application reviewed and is subject to this notice.

Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

The Director of the National Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1051–1053, as amended (21 U.S.C. 355)), and under the authority delegated to him (see 21 CFR 5.82 and 47 FR 26913 published in the **Federal Register** of June 22, 1982) finds that, on the basis of new information before him with respect to the product, evaluated together with the evidence available to him when the application was approved, there is lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of the parts of NDA 12–813 that provide for Blephamide Liquifilm Ophthalmic Suspension containing sodium sulfacetamide, prednisolone acetate, phenylephrine hydrochloride, and antipyrine, and all amendments and supplements applying to this formation, is withdrawn effective September 16, 1982.

Shipment in interstate commerce of the above product, or any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: August 5, 1982.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 82-22196 Filed 8-16-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-82-1148]

Mutual Mortgage Insurance; Multifamily Housing Mortgage Insurance; Urban Renewal Mortgage Insurance

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of debenture interest rate.

SUMMARY: This Notice establishes the debenture interest rate applicable to all home and project mortgages and loans under the National Housing Act (the Act) as amended, except for debentures issued under the Act's Section 221(g)(4) provisions, committed or endorsed on or after July 1, 1982. The Secretary of the Treasury determines debentures interest rates semiannually in accordance with established procedure and the Act.

The Secretary of the Treasury has determined in accordance with the provisions of Section 224 of the National Housing Act, as amended, that the interest rate for the month of May 1982 is 12¾ percent and has approved the establishment of debenture interest rates at 12¾ percent to be effective as of July 1, 1982; thus the interest rates applicable after these dates are:

Effective rate (percent)	On or after	Prior to
6¾	July 1, 1974	July 1, 1975.
7	July 1, 1975	Jan. 1, 1976.
7¼	Jan. 1, 1976	July 1, 1976.
7	July 1, 1976	Jan. 1, 1977.
6¾	Jan. 1, 1977	July 1, 1977.
7¼	July 1, 1977	Jan. 1, 1978.
7¾	Jan. 1, 1978	July 1, 1978.
7¾	July 1, 1978	Jan 1, 1979.
8	Jan. 1, 1979	July 1, 1979.
8¼	July 1, 1979	Jan. 1, 1980.
9¼	Jan. 1, 1980	July 1, 1980.
9¾	July 1, 1980	Jan. 1, 1981.
11¾	Jan. 1, 1981	July 1, 1981.
12¾	July 1, 1981	Jan. 1, 1982.
12¾	Jan. 1, 1982	July 1, 1982.
12¾	July 1, 1982	

EFFECTIVE DATE: September 17, 1982. The rate established by this notice shall apply retroactively from July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Arnold H. Diamond, Director, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street SW., Room 6186, Washington, D.C. 20410. Telephone (202) 426-4325. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Debenture interest rates are set by the Secretary of the Treasury in accordance with a procedure established by statute, and HUD bases its changes on a notification from the Secretary of the Treasury. Because these changes do not reflect the exercise of administrative discretion by HUD, public procedure would provide no practical benefit and is unnecessary. Moreover, because these changes are not regulatory in nature, the Secretary has discontinued the former practice of publishing the debenture rate in rule form. (FR 47, No. 117, 26124) The Department will publish semiannually, in July and January, a Notice of interest rate change in the **Federal Register.**

Debenture rate changes have been categorically excluded from environmental clearance procedures, according to provisions of 24 CFR 50.21(a)(15).

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715k)

Dated: August 11, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing, Deputy Federal Housing Commissioner.

[FR Doc. 82-22330 Filed 8-16-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[N-35951]

Nevada; Proposed Withdrawal and Reservation of Lands

Correction

In FR Doc. 82-20590, beginning on page 32799 in the issue of Thursday, July 29, 1982, the sixth line of the land description for T. 6 N., R. 51 E. in the middle column of page 32799 should have read, "Sec. 31, W½SE¼SE¼, SE¼NW¼NE¼SE¼;".

BILLING CODE 1505-01-M

Cedar City District; Exchange of Public and Private Lands in Kane County, Utah, for Surface Estate only

The following described land has been identified to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976 43 U.S.C. 1716:

Salt Lake Meridian, Utah

T. 40 S., R. 5 W.,
Sec. 19, lot 2;
Sec. 19, W½NW¼NE¼, NW¼SE¼NW¼.
T. 40 S., R. 6 W.,
Sec. 13, SW¼NE¼, NW¼NE¼, W½SE¼NE¼, E½W½SE¼;
Sec. 23, SW¼NE¼, E½SE¼NW¼, E½SE¼;
Sec. 24, W½SW¼, SE¼NW¼SE¼, NE¼SW¼SE¼, NW¼SE¼SE¼;
Sec. 26, W½NE¼NE¼.

Comprising 479.91 acres.

In exchange for these lands the Federal Government will acquire the following non-federal land in Kane County described as follows:

Salt Lake Meridian, Utah

T. 40 S., R. 6 W.,
Sec. 22, E½.

Comprising 320 acres.

The purpose of the exchange is to acquire non-federal lands valuable for livestock grazing and better range management. The public interest will be served by making the exchange. The values of the lands to be exchanged are approximately equal.

Upon publication of this notice, the lands are hereby segregated from appropriation under the public land laws including the mining laws. This segregation shall terminate upon issuance of patent or other document of conveyance of such lands, upon publication in the **Federal Register** of a termination of the segregation or two years from the date of its publication, whichever occurs first.

Lands to be transferred from the United States will be subject to the following reservations:

1. A reservation of a right-of-way for ditches and canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. All minerals, with the right to prospect for, mine, and remove the same under applicable laws and such regulations as the Secretary may prescribe.

Detailed information concerning the proposed exchange, including the planning documents, environmental assessment, decision document, and the record of public involvement, is available for review at the Kanab Area Office, Bureau of Land Management, 320 North First East, P.O. Box 459, Kanab, Utah.

On or before October 1, 1982, interested parties may submit comments to the Kanab Area Manager, Kanab Area Office, BLM, 320 North First East, Box 459, Kanab, Utah 84741, or the Cedar City District Manager, BLM, 1579 North Main Street, P.O. Box 724, Cedar City, Utah 84720.

August 6, 1982.

Morgan S. Jensen,

District Manager.

[FR Doc. 82-22315 Filed 8-16-82; 8:45 am]

BILLING CODE 4310-84-M

National Petroleum Reserve in Alaska Proposed Oil and Gas Lease Containment Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed oil and gas lease containment areas for July 1983 competitive lease offering.

SUMMARY: The purpose of this notice is to announce to the general public, as well as to the oil and gas industry, areas in the National Petroleum Reserve in Alaska containing the lands likely to be parcelled and offered for oil and gas lease by sealed bid in July 1983. The 1983 sale will be the first of several sales in a five year schedule. Final tract selection decisions will be made in April 1983, following the completion of the Environmental Impact Statement (EIS). The draft EIS will be released in October 1982.

A map showing these proposed lease containment areas is available in the Bureau of Land Management (BLM) Alaska State Office in the Public Room, First Floor, Federal Building, 701 C Street, Box 13, Anchorage, Alaska 99513, or in the BLM Fairbanks District Office, North Post, Fort Wainwright, Box 1150, Fairbanks, Alaska 99707.

FOR FURTHER INFORMATION CONTACT:

Jerry Wickstrom, Program Manager, NPR-A, Alaska State Office, BLM, Telephone (907) 271-3632.

Dated: August 11, 1982.

James M. Parker,

Associate Director.

[FR Doc. 82-22291 Filed 8-16-82; 8:45 am]

BILLING CODE 4310-84-M

Butte District Grazing Advisory Board; Meeting

The Butte District Grazing Advisory Board will meet on Wednesday, September 15, 1982, in the conference room of the Butte District Office at 106 North Parkmont (Industrial Park), Butte, Montana. The meeting will begin at 9:00 a.m.

The agenda for the meeting will include 1) BLM grazing fee policy; 2) the asset management program; 3) an update on the East Pioneer Stewardship program; 4) an update on State in-lieu selections; 5) a report on the joint travel plan and map coordinated with the Beaverhead National forest; 6) a report on a recent court decision relating to the subleasing of state lands; 7) a discussion of range improvement expenditures; and 8) a discussion of allotment management plan planning procedures.

The meeting is open to the public. Interested persons may make oral statements to the board or file written statements for the board's consideration. Persons wishing to make oral statements should make prior arrangements with the District Manager, Bureau of Land Management, P.O. Box 3388, Butte, Montana 59702.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction within 30 days following the meeting.

Dated: August 9, 1982.

Gerald L. Quinn,

Acting District Manager.

[FR Doc. 82-22457 Filed 8-16-82; 8:45 am]

BILLING CODE 4310-84-M

District Manager; Redelegation of Authority

Pursuant to the authority contained in section 3.1 of Bureau Order No. 701, as amended, the following specific authorities delegated to the District Manager in the cited order are hereby redelegated to the Area Managers:

Section 3.9—Land Use

(m) Rights-of-way.

(o) Special land-use permits.

The above authorities are to be performed in their respective areas of responsibility and in accordance with existing policies and regulations.

This redelegation is effective August 17, 1982.

Dwight L. Patton,

District Manager.

August 6, 1982.

[FR Doc. 82-22470 Filed 8-16-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 12177]

Oregon; Termination of Proposed Withdrawal and Reservation of Lands

Notice of Bureau of Land Management, U.S. Department of the Interior, application OR 12177 for withdrawal and reservation of lands was published as FR Doc. 74-11065 on page 17241 of the issue of May 14, 1974, and republished as FR Doc. 80-2244 on page 5842 of the issue of January 24, 1980. The purpose of the proposed withdrawal was to protect the Abert Rim Scenic Corridor, and the following described lands were temporarily segregated from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C. Ch. 2):

Willamette Meridian

Abert Rim Scenic Corridor

T. 34 S., R. 21 E.,
- Sec. 1, Lots 1, 2, and 3;
- Sec. 12, Lots 1, to 4, inclusive;
- Sec. 13, Lots 1, to 4, inclusive;
- Sec. 24, Lots 1, to 4, inclusive;
- Sec. 25, Lots 1, to 4, inclusive.

T. 35 S., R. 21 E.,
- Sec. 1, Lot 1, S½NE¼, and S½;
- Sec. 2, Lots 1 and 2, and SE¼SE¼;
- Sec. 11, Lots 1 to 4, inclusive, NE¼NE¼, S½NE¼, E½SW¼, SE¼;
- Sec. 12, NW¼NE¼, NW¼, NE¼SW¼, and W½SW¼;
- Sec. 13, W½NW¼;
- Sec. 14, N½, N½S½, and S½SW¼;
- Sec. 15, Lots 1 to 4, inclusive, SE¼NE¼, and SE¼;
- Sec. 22, Lots 1, 2, NE¼, E½NW¼ and S½;
- Sec. 23, N½NW¼;
- Sec. 27, Lots 1 to 4, inclusive, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
- Sec. 28, E½, SE¼NW¼, and NE¼SW¼;
- Sec. 33, E½;
- Sec. 34, W½E½, and W½.

T. 36 S., R. 21 E.,
- Sec. 3, Lots 2, 3, SW¼NE¼, SE¼NW¼, E½SW¼, and W½SE¼;
- Sec. 10, E½, and E½NW¼;
- Sec. 11, Lot 4;
- Sec. 15, E½.

T. 33 S., R. 22 E.,
- Sec. 3, Lots 2, 3, SW¼NE¼, SE¼NW¼, E½SW¼, and W½SE¼;
- Sec. 9, E½SW¼, and SE¼;
- Sec. 10, NE¼, E½NW¼, SW¼, and W½SE¼;
- Sec. 15, NE¼NW¼, and W½W½;
- Sec. 16, E½, and E½W½;
- Sec. 20, Lot 6, SE¼NE¼, SE¼SW¼, and SE¼;
- Sec. 21, NE¼NE¼, W½NE¼, NW¼, N½SW¼, and SW¼SW¼;
- Sec. 29, NE¼NE¼, W½NE¼, and W½;
- Sec. 30, Lots 1 to 4, inclusive, and SE¼SE¼;
- Sec. 31, Lots 1 to 4, inclusive, NE¼NE¼, S½NE¼, and SE¼;
- Sec. 32, N½NW¼, SW¼NW¼, and NW¼SW¼.

T. 34 S., R. 22 E.,
- Sec. 6, Lots 2 to 8, inclusive, SW¼NE¼, SE¼NW¼, E½SW¼, and NW¼SE¼;

Sec. 7, Lots 1 to 4, inclusive, and E½W½;
Sec. 18, Lots 1 to 4, inclusive, SW¼NE¼, E½W½, and W½SE¼;
Sec. 19, Lots 1 to 4, inclusive, and NW¼NE¼, and E½W½;
Sec. 30, Lots 1 to 4, inclusive, and E½W½;
Sec. 31, Lots 1 to 4, inclusive, and E½W½.
T. 35 S., R. 22 E.,
Sec. 6, Lots 3 to 7, inclusive, and SE¼NW¼.

The areas described aggregate 12, 477.49 acres in Lake County, Oregon.

The Bureau of Land Management has cancelled the application in its entirety; therefore, pursuant to the regulations contained in 43 CFR 2310.2–1(c), the above described lands will be relieved of the above mentioned segregative effect at 9:30 a.m., on September 23, 1982.

Dated: August 9, 1982.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–22443 Filed 8–16–82; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On June 22, 1982, a notice was published in the **Federal Register** (47 FR 26923), that an application had been filed with the Fish and Wildlife Service by Donald B. Siniff for a permit to capture, tag, and implant radio transmitters, collect blood samples and release up to 160 sea otters (*Enhydra lutris*) in Alaska and California for scientific purposes.

Notice is hereby given that on August 10, 1982, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Fish and Wildlife Service issued a permit PRT 2–9246, to Donald B. Siniff subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated: August 11, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82–22450 Filed 8–16–82; 8:45 am]

BILLING CODE 4310–55–M

Marine Mammal Annual Report; Availability

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of marine mammal annual report.

SUMMARY: The Associate Director, Wildlife Resources, U. S. Fish and Wildlife Service, on May 25, 1982, signed the annual report on the Service's administration of the marine mammals under its jurisdiction, as required by section 103(f) of the Marine Protection Act of 1972, as amended (MMPA). The report covers the period January 1, 1981, to December 31, 1981, and was submitted to the Congress on July 21, 1982. By this notice, the Director informs the public that the report is available and that any interested individual may secure a single copy by requesting same in writing from the Service.

ADDRESS: Write for a copy to Director (PUB), U. S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Reffalt, Chief, Division of Wildlife Management, U. S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202/632–2202.

SUPPLEMENTARY INFORMATION: The U. S. Fish and Wildlife Service is responsible for eight species of marine mammals under the jurisdiction of the Department of the Interior, as assigned by the MMPA. These species are polar bears, sea and marine otters, walruses, manatees (three species), and dugongs. The report reviews the Service's marine mammal-related activities during the report period. Administrative actions discussed include MMPA reauthorization amendments and appropriations, financial grants to States to help them develop and implement programs for protecting and managing marine mammals in their waters, marine mammals in Alaska, endangered and threatened marine mammal species (specifically the West Indian manatee in Florida and the sea otter in California), law enforcement activities, scientific research and public display permits, certificates of registration, research, Outer Continental Shelf environmental studies, and international activities.

This notice was prepared by Rupert R. Bonner, Wildlife Biologist, Division of Wildlife Management, Branch of Wildlife Assistance, 202/632–2202.

Dated: August 11, 1982.

Don W. Minnich,

Acting Associate Director, Fish and Wildlife Service.

[FR Doc. 82–22233 Filed 8–16–82; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Information Collection Submitted to OMB for Review

The proposals for the collection of information listed below have been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance office at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance office and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202–395–7340.

Title: 30 CFR Part 221.
Bureau Form Number: None.
Frequency: On occasion.
Description of Respondents: Lessees and operators of Federal and Indian Oil and Gas resources.
Annual Responses: 198,665.
Annual Burden Hours: 87,355.
Bureau Clearance Officer: Pat Cunningham (703) 860–7211.

Title: 30 CFR 221.32, Monthly Report of Operations.
Bureau Form Numbers: 9–329 and 9–329–1.
Frequency: Monthly.
Description of Respondents: Lessees and operators of Federal and Indian Oil and Gas resources.
Annual Responses: 190,000.
Annual Burden Hours: 190,000.
Bureau Clearance Officer: Pat Cunningham (703) 860–7211.

Title: 30 CFR 221.32, Well Completion or Recompletion Report.
Bureau Form Number: 9–330.
Frequency: Nonrecurring.
Description of Respondents: Lessees and operators of Federal and Indian Oil and Gas resources.
Annual Responses: 4,400.
Annual Burden Hours: 4,400.
Bureau Clearance Officer: Pat Cunningham (703) 860–7211.

Title: 30 CFR 221.27, Sundry Notices and Reports on Wells.
Bureau Form Number: 9–331.
Frequency: On occasion.
Description of Respondents: Lessees and operators of Federal and Indian Oil and Gas resources.
Annual Responses: 4,000.
Annual Burden Hours: 2,000.
Bureau Clearance Officer: Pat Cunningham (703) 860–7211.

Title: 30 CFR 221.23, Application for Permit to Drill, Deepen, or Plug-back.

Bureau Form Number: 9–331C.

Frequency: Nonrecurring.

Description of Respondents: Lessees and operators of Federal and Indian Oil and Gas resources.

Annual Responses: 6,600.

Annual Burden Hours: 3,300.

Bureau Clearance Officer: Pat Cunningham (703) 860–7211.

Dated: July 16, 1982.

A. V. Bailey,

Acting Associate Director for Onshore Minerals Operation.

[FR Doc. 82–22458 Filed 8–11–82; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 6, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by September 1, 1982.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Independence County

Batesville, *Warner, Captain John T., House,* 822 E. College St.

Pulaski County

Little Rock, *Peoples Building & Loan Building,* 213–217 W. 2nd St.

CALIFORNIA

Los Angeles County

Pasadena, *Newcomb House,* 675–677 N. El Molino Ave.

DISTRICT OF COLUMBIA

Washington, *Schneider Triangle,* Bounded by Washington Circle, New Hampshire Ave. NW, K, 22nd, and L Sts. NW

Washington, *Van Ness Mausoleum,* Oak Hill Cemetery, 3001 R ST. NW

ILLINOIS

Cook County

Chicago, *Villa Historic District,* 3948—3952 and 3949—3953 W. Waveland Ave. (Boundary increase)

Madison County

Alton, *Middletown Historic District,* 3rd St. between Market and Piasa St. (Boundary increase)

INDIANA

Jackson County

Seymour vicinity, *Sand Hill Archeological Site 12J62*

MINNESOTA

Hennepin County

Eden Prairie, *Cummins, John R., Homestead,* 13600 Pioneer Trail

MISSISSIPPI

Adams County

Natchez vicinity, *Foster's Mound,* NE of Natchez off US 61

Wilkinson County

Woodville vicinity, *Pleasant Hill,* E of Woodville on MS 24

MISSOURI

St. Louis (Independent City), *Barr Branch Library Historic District,* 2500—2630 Lafayette Ave.

St. Louis (Independent City), *Building at 1300 Washington Avenue,* 1300—1310 Washington Ave.

St. Louis (Independent City), *Butler House,* 4484 W. Pine Blvd.

St. Louis (Independent City), *Cordage Mill District (LaSalle Park MRA),* roughly bounded by Lafayette, I–44, Soulard, Emmet, and S. 12th Sts.

St. Louis (Independent City), *Des Peres School,* 6307 Michigan Ave.

St. Louis (Independent City), *Frenchtown District (LaSalle Park MRA),* roughly bounded by Hickory, 10th, Park, and S. 9th Sts.

St. Louis (Independent City), *Judge Speck District (LaSalle Park MRA),* roughly bounded by S. 11th, Park, Rutger, and S. 12th STs.

St. Louis (Independent City), *Markham Memorial District (LaSalle Park MRA),* roughly bounded by Carroll, Menard, and Lafayette Sts.

St. Louis (Independent City), *Principia/Page-Park YMCA Gymnasium,* 5569 Minerva Ave.

St. Louis (Independent City), *Silk Exchange Building,* 501–511 N. Tucker Blvd.

St. Louis (Independent City), *St. Vincents District (LaSalle Park MRA),* roughly bounded by Park, S. 9th, Marion, and Menard Sts.

St. Louis (Independent City), *Turnverein District (LaSalle Park MRA),* roughly bounded by Menard, Marion, S. 10th, and Carroll Sts.

Boone County

Columbia, *Pierce Pennant Motor Hotel,* 1406 Old US 40 W.

Jackson County

Kansas City, *Armour Boulevard Historic District,* Armour Blvd. from Broadway to Paseo

Kansas City, *Fire Department Headquarters; Fire Station #2,* 1020 Central Ave.

Kansas City, *Gate City National Bank,* 1111 Grand Ave.

Kansas City, *Webster School,*1644 Wyandotte St.

Kansas City, *West Eleventh Street Historic District,* Central and W. 11th Sts.

MONTANA

Missoula County

Missoula vicinity, *DeSmet School,* NW of Missoula on US 10

NEBRASKA

Lancaster County

Lincoln, *Harris House,*1630 K St.

OKLAHOMA

Jefferson County

Ringling vicinity, *Cornish Orphan's Home,* S of Ringling off US 70

McIntosh County

Checotah, *Checotah Business District,* Gentry Ave. between W. 1st and W. Main Sts. and Broadway Ave. between Lafayette and Spaulding Aves.

Muskogee County

Muskogee, *Severs Hotel,* 200 N. State St.

Noble County

Perry, *Masonic Temple Building,* 7th and Delaware Sts.

Wagoner County

Wagoner, *Cobb Building,* 203 E. Cherokee St.

Tennesee

Shelby County

Memphis, *Bruce Elementary School (Public Schools of Memphis 1902–1915 TR),* 1206 Carr Ave.

Memphis, *Central High School (Public Schools of Memphis 1902–1915 TR),* 306 S. Bellevue Blvd.

Memphis, *Grant/Pope Elementary School (Public Schools of Memphis 1902–1915 TR),* 190 Chelsea Ave.

Memphis, *Guthrie Elementary School (Public Schools of Memphis 1902–1915 TR),* 951 Chelsea Ave.

Memphis, *Hill, A. B., Elementary School (Public Schools of Memphis 1902–1915 TR),* 1372 Latham St.

Memphis, *Idlewild Elementary School (Public Schools of Memphis 1902–1915 TR),* 1950 Linden Ave.

Memphis, *Lauderdale/Walker Elementary School (Public Schools of Memphis 1902–1915 TR),* 995 S. Lauderdale St.

Memphis, *Lenox Elementary School (Public Schools of Memphis 1902–1915 TR),* 519 S. Edgewood St.

Memphis, *Maury Elementary School (Public Schools of Memphis 1902–1915 TR),* 272 N. Bellevue Blvd.

Memphis, *Peabody Elementary School (Public Schools of Memphis 1902–1915 TR),* 2086 Young Ave.

Memphis, *Rozelle Elementary School (Public Schools of Memphis 1902–1915 TR),* 993 Roland St.

Memphis, *Snowden Jr. High School (Public Schools of Memphis 1902–1915 TR),* 1870 N. Parkway

Memphis, *South Main Street Historic District,* Roughly S. Main St. between

Webster and Linden, and Mulberry between Calhoun and Vance Aves.

UTAH

Beaver County

Beaver, *Ashworth, John, House (Beaver MRA)*, 115 S. 200 West
Beaver, *Ashworth, John, House (Beaver MRA)*, 110 S. 1st West
Beaver, *Ashworth, William, House (Beaver MRA)*, 85 N. 2nd East
Beaver, *Atkin, James, House (Beaver MRA)*, 260 W. 300 North
Beaver, *Atkins and Smith House (Beaver MRA)*, 390 N. 400 West
Beaver, *Baldwin, Caleb, House (Beaver MRA)*, 195 S. 400 East
Beaver, *Barton, William, House (Beaver MRA)*, 295 N. 300 East
Beaver, *Beaver City Library (Beaver MRA)*, 50 W. Center St.
Beaver, *Beaver High School (Beaver MRA)*, 150 N. Main St.
Beaver, *Beaver Relief Society Meetinghouse (Beaver MRA)*, 35 N. 1st East
Beaver, *Beaver School House (Beaver MRA)*, 310 N. 300 East
Beaver, *Bird, Edward, House (Beaver MRA)*, Center and 300 East
Beaver, *Black, John, House (Beaver MRA)*, 595 N. 100 West
Beaver, *Bohn, Joseph, House (Beaver MRA)*, 355 S. 200 West
Beaver, *Boyter, Alexander, House (Beaver MRA)*, 590 N. 200 West
Beaver, *Boyter, James, House (Beaver MRA)*, 90 W. 200 North
Beaver, *Boyter, James, Shop (Beaver MRA)*, 50 W. 200 North
Beaver, *Bradshaw, George Albert, House (Beaver MRA)*, 265 N. 200 West
Beaver, *Burt, William, House (Beaver MRA)*, 515 E. Center St.
Beaver, *Cowdell, Enoch E., House (Beaver MRA)*, 595 N. 4th West
Beaver, *Cox, Silas, House (Beaver MRA)*, 1st South and 4th East
Beaver, *Crosby, Alma, House (Beaver MRA)*, 115 E. 1st North
Beaver, *Crosby, Jonathan, House (Beaver MRA)*, 490 E. 200 North
Beaver, *Dalten, Charles A., House (Beaver MRA)*, 270 S. 1st West
Beaver, *Dean, James Heber, House (Beaver MRA)*, 390 W. 500 North
Beaver, *Erickson House (Beaver MRA)*, 290 N. 300 West
Beaver, *Farnsworth, Julia P. M., Barn (Beaver MRA)*, 180 W. Center St. (rear)
Beaver, *Farnsworth, Julia, House (Beaver MRA)*, 180 W. Center St.
Beaver, *Fennemore, James, House (Beaver MRA)*, 195 N. 2nd East
Beaver, *Fernley, Edward, House (Beaver MRA)*, 215 E. 200 North
Beaver, *Fernley, William, House (Beaver MRA)*, 1045 E. 200 North
Beaver, *Fotheringham, Amie, House (Beaver MRA)*, 130 N. 2nd West
Beaver, *Fotheringham, Caroline, House (Beaver MRA)*, 290 N. 600 East
Beaver, *Fotheringham, William, House (Beaver MRA)*, 190 W. 1st North
Beaver, *Frazer, David I., House (Beaver MRA)*, 817 E. 200 North
Beaver, *Gale, Henry C., House (Beaver MRA)*, 95 E. 500 North
Beaver, *Gale, Henry C., House (Beaver MRA)*, 495 N. 1st East
Beaver, *Gilies, Daniel S., House (Beaver MRA)*, 295 N. 400 East
Beaver, *Gilies, Sarah Jane, House (Beaver MRA)*, 205 E. 300 North
Beaver, *Greenwood, William, House (Beaver MRA)*, 190 S. 1st West
Beaver, *Grimshaw, John, House (Beaver MRA)*, 290 N. 200 East
Beaver, *Harris, Louis W., Flour Mill (Beaver MRA)*, 915 E. 200 North
Beaver, *Harris, Louis W., House (Beaver MRA)*, 55 E. 200 North
Beaver, *Harris, Sarah Eliza, House (Beaver MRA)*, 375 E. 200 North
Beaver, *Hawkins, William and Eliza, House (Beaver MRA)*, 95 E. 200 North
Beaver, *House at 110 S. 3rd West (Beaver MRA)*, 110 S. 3rd West
Beaver, *House at 300 S. and 200 East (Beaver MRA)*, 300 S. and 200 East
Beaver, *House at 325 S. Main St. (Beaver MRA)*, 325 S. Main St.
Beaver, *House at 90 W. 500 North (Beaver MRA)*, 90 W. 500 North
Beaver, *Huntington, Joseph, House (Beaver MRA)*, 215 S. 2nd West
Beaver, *Jones, Thomas, House (Beaver MRA)*, 635 N. 400 West
Beaver, *Kershaw, Robert, House (Beaver MRA)*, 290 S. 1st East
Beaver, *Lee, John Ruphard, House (Beaver MRA)*, 195 N. 1st West
Beaver, *Limb, John and Alice, House (Beaver MRA)*, 315 W. 500 North
Beaver, *Limb, Lester, House (Beaver MRA)*, 495 N. 400 West
Beaver, *Low Hotel (Beaver MRA)*, 95 N. Main St.
Beaver, *Low, Will M., House (Beaver MRA)*, 95 S. Main St.
Beaver, *Maeser, Reinhard, House (Beaver MRA)*, 295 E. 200 North
Beaver, *Mansfield, Murdock and Co. Store (Beaver MRA)*, W. Center and N. Main Sts.
Beaver, *Maxom House (Beaver MRA)*, 200 North
Beaver, *McEvan, Mathew, House (Beaver MRA)*, 205 N. 100 West
Beaver, *Meeting Hall (Beaver MRA)*, 1st N. and 3rd E.
Beaver, *Morgan, William, House (Beaver MRA)*, 110 W. 600 North
Beaver, *Morris, Andrew James, House (Beaver MRA)*, 110 N. 400 East
Beaver, *Mountain View Cemetery (Beaver MRA)*, 400—600 N. and 500—700 East
Beaver, *Moyes, William, Jr., House (Beaver MRA)*, 395 N. 100 West
Beaver, *Murdock, Almira Lott, House (Beaver MRA)*, 85 W. 1st North
Beaver, *Neilsen, Neils B., House (Beaver MRA)*, 210 W. 600 North
Beaver, *Nowers, Wilson G., House (Beaver MRA)*, 195 E. 1st North
Beaver, *Odd Fellows Hall (Beaver MRA)*, 33–35 N. Main St.
Beaver, *Olcott, Frances A., House (Beaver MRA)*, 590 E. 100 North
Beaver, *Oleson, Andrew, House (Beaver MRA)*, 200 East and 500 North
Beaver, *Orwin, Jessie, House (Beaver MRA)*, 390 W. 600 North
Beaver, *Patterson, Andrew, House (Beaver MRA)*, 291 S. 1st West
Beaver, *Powell, David, House (Beaver MRA)*, 115 N. 400 West
Beaver, *Puffer, Ephraim Orvel, House (Beaver MRA)*, 195 S. 2nd East
Beaver, *Reeves, Sylvester H., House (Beaver MRA)*, 90 N. 2nd West
Beaver, *Riggs, John, and Murdock, Mae Bain, House (Beaver MRA)*, 94 W. Center St.
Beaver, *Riggs, John, and Murdock, Mary Ellen, Wolfenden (Beaver MRA)*, 90 W. 1st North
Beaver, *Riley, James H., House (Beaver MRA)*, 295 E. 500 North
Beaver, *Robinson, James E., House (Beaver MRA)*, 415 E. 400 North
Beaver, *Robinson, Jeremiah L., House (Beaver MRA)*, 590 N. 300 East
Beaver, *Robinson, William, House (Beaver MRA)*, E. of Beaver on UT 153
Beaver, *Robinson, William, House (Beaver MRA)*, 95 N. 300 West
Beaver, *Rolands, Mary, House (Beaver MRA)*, 415 N. 100 West
Beaver, *Schofield, Thomas House (Beaver MRA)*, 490 N. 200 East
Beaver, *School House (Beaver MRA)*, 325 N. 200 West
Beaver, *Shepherd, Dr. Warren House (Beaver MRA)*, 50 W. 1st North
Beaver, *Skinner, Horace A., House (Beaver MRA)*, 185 S. Main St
Beaver, *Smith, Ellen, House (Beaver MRA)*, 395 N. 300 West
Beaver, *Smith, Seth W., House (Beaver MRA)*, 190 N. 600 East
Beaver, *Smith, William P., House (Beaver MRA)*, 190 E. Center St.
Beaver, *Smith, William P., House (Beaver MRA)*, 90 N. 1st East
Beaver, *Stephens, Mitchell M., House (Beaver MRA)*, 495 N. 200 East
Beaver, *Stoney, Frederick James, House (Beaver MRA)*, 85 E. 600 North
Beaver, *Stoney, Robert, House (Beaver MRA)*, 295 N. 400 West
Beaver, *Tanner, Henry M., House (Beaver MRA)*, 400 N. and 300 East
Beaver, *Tanner, Jake, House (Beaver MRA)*, 580 S. 200 West
Beaver, *Tanner, Sidney, House (Beaver MRA)*, 195 E. 200 North
Beaver, *Tattersall, Joseph, House (Beaver MRA)*, 195 N. 400 West
Beaver, *Thompson, Mary I., House (Beaver MRA)*, 25 N. 400 East
Beaver, *Thompson, W. O., House (Beaver MRA)*, 415 N. 400 West
Beaver, *Thompson, William, House (Beaver MRA)*, 160 E. Center St.
Beaver, *Thompson, William, Jr., House (Beaver MRA)*, 10 W. 400 North
Beaver, *Tolton, Edward, House (Beaver MRA)*, 210 W. 400 North
Beaver, *Tolton, J. F., Grocery (Beaver MRA)*, 25 N. Main St.
Beaver, *Tolton, Walter S., House (Beaver MRA)*, 195 W. 500 North
Beaver, *Twitchell, Ancil, House (Beaver MRA)*, 100 S. 200 East
Beaver, *Tyler, Daniel, House (Beaver MRA)*, 310 N. Main St.
Beaver, *Whitaker, James, House (Beaver MRA)*, 395 N. 300 East
Beaver, *White, Maggie Gillies, House (Beaver MRA)*, 200 North

Beaver, *White, Samuel, House (Beaver MRA)*, 315 N. 100 East
Beaver, *White, William H., House (Beaver MRA)*, 510 N. 100 East
Beaver, *Willden, Elliot, House (Beaver MRA)*, 340 S. Main St.
Beaver, *Willden, Feargus O'Connor, House (Beaver MRA)*, 120 E. 1st South
Beaver, *Willden, John, House (Beaver MRA)*, 495 N. 200 West
Beaver, *Yardley, John, House (Beaver MRA)*, 210 S. 1st West

WEST VIRGINIA

Cabell County

Huntington, *Cabell County Courthouse*, 5th Ave. and 8th St.

Jefferson County

Charles Town vicinity, *Rion Hall*, E of Charles Town off US 340
Shepherdstown vicinity, *Lucas, Capt. William and Lucas, Robert, House*, SE of Shepherdstown on SR 31

Kanawha County

Charleston, *Littlepage Stone Mansion*, 1809 W. Washington St.

Randolph County

Elkins, *Elkins, Senator Stephen Benton, House*, Davis and Elkins College Campus

Webster County

Replete vicinity, *Mollohan Mill*, S of Replete on SR 8

Wood County

Parkersburg, *Tavenner House*, 2401 Camden Ave.

WISCONSIN

Dane County

Madison, *Cardinal Hotel*, 416 W. Wilson St.

Waukesha County

Big Bend vicinity, *Goodwin-McBean Site (47 Wk-184)*,
Big Bend vicinity, *Peterson Site (47-Wk-199)*,
Mukwonago vicinity, *Barfoth-Blood Mound Group (47 Wk-63)*,

WYOMING

Teton County

Yellowstone National Park, *Old Faithful Historic District (Yellowstone National Park MRA)*, Both sides of Grand Loop Rd. at Old Faithful Geyser

[FR Doc. 82-22235 Filed 8-16-82; 8:45 am]
BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before *August 12, 1982*. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by September 1, 1982.

Carol D. Shull,
Chief of Registration, National Register.

NEW YORK

St. Lawrence County

Morristown, *Ford, Jacob, House (Morristown Village MRA)*, Northumberland St.
Morristown, *Land Office (Morristown Library) (Morristown Village MRA)*, Village of Morristown
Morristown, *Miller, Paschal, House (Morristown Village MRA)*, Main and Gouveneur Sts.
Morristown, *Morristown Schoolhouse (Morristown Village MRA)*, Columbia St.
Morristown, *Stocking, Samuel, House (Morristown Village MRA)*, 83 Gouveneur St.
Morristown, *Stone Windmill (Morristown Village MRA)*, Morris St.
Morristown, *United Methodist Church (Morristown Village MRA)*, Gouveneur St.
Morristown, *Wright's Stone Store (Morristown Village MRA)*, Main St.

VIRGINIA

Rappahannock County

Washington vicinity, *Calvert Mill/ Washington Mill*, E of Washington on US 211

York County

Williamsburg vicinity, *Bruton Parish Poorhouse Archaeological Site*

[FR Doc. 82-22507 Filed 8-16-82; 8:45 am]
BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

[Federal Lease No. M-073109]

Correction to Availability of Final Environmental Impact Statement on the Proposed Rosebud Area C Mine, Rosebud County, Mont.

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Public Review Period; correction.

SUMMARY: This document corrects the date for closure of the public review period for the final environmental impact statement on the proposed Rosebud Area "C" Mine which was published Thursday, August 5, 1982, (45 FR 34054). Accordingly, the 15 day public review period which began on August 4, 1982, will close on August 19, 1982.

FOR FURTHER INFORMATION CONTACT: Walter Swain, Office of Surface Mining, Western Technical Center, 1020 15th Street, Denver, Colorado 80202 (telephone: 303/837-5656).

Dated: August 12, 1982.

Steve Griles,
Deputy Director.

[FR Doc. 82-22456 Filed 8-16-82; 8:45 am]
BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Section 5b Applications 2, 3, and 6]

Western Railroads, Eastern Railroads; and Southern Railroads; Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Final Decision.

SUMMARY: In a decision served January 21, 1981, and noticed in the **Federal Register** January 25, 1981, (46 FR 9218), the Commission ordered these rate bureaus to file new or amended agreements consistent therewith. After due consideration of these amended agreements, the Commission finds that they do not comport with that decision and have not been shown to be in furtherance of the national transportation policy or in the public interest within the meaning of 49 U.S.C. 10706(a). The agreements are not approved.

DATES: New or amended agreements must be filed within 45 days from the date this notice is published in the **Federal Register**. (No new filing fee is required.) Comments on the agreements will be due 20 days thereafter.

ADDRESS: An original and 10 copies of agreements and comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278, or Tom Smerden, (202) 275-7277

SUPPLEMENTARY INFORMATION: In this latest decision, we found generally that many provisions of the new agreements did not properly reflect the intent of the Staggers Rail Act of 1980, or of our January 21, 1981, decision. Specific findings included:

(1) The definition of "practicable participation" in 49 U.S.C. 10706(a) was not properly implemented by the rate bureaus.

(2) Provisions for circulation of proposals must be modified.

(3) Appendices D and E of the Eastern Agreement and Article XV, Section 1 of the Western Agreement must be modified.

(4) The agreements must be modified to provide specifically that there will be no substantive discussion at any time of pending independent actions or single-

line rates and that no reference will be made to them until they have been filed with this Commission.

(5) The agreements must make it clear what the standards are for quorums and for approval of proposals by eligible carriers.

(6) Except for representatives of the Short Line Railroad Association proxies must be very specific and leave no discretion to the agent. Agreements allowing for these proxies must make this clear.

(7) A short-line railroad must be given full participation when it is a practicable participant in the movement.

(8) The agreements must not allow approval of proposals by silence where the direct-connector restriction applies.

(9) There is no antitrust immunity for carriers to be present in meeting rooms or adjacent areas during voting and discussion of proposals unless they are direct connectors to that specific proposal. The Eastern and Western Agreements must be modified.

(10) Specific procedures must be provided for shipper participation.

(11) All rate bureau meetings must be sound recorded or transcribed.

(12) The Eastern and Western bureaus are advised to review and amend their committee structure in light of this decision.

(13) The agreements must be modified with regard to government rates.

(14) Approval of bureau-wide general rate increases is restricted to increases filed pursuant to Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures*, 364 I.C.C. 841 (1981).

(15) The Western Agreement does not comply with the requirements of 49 U.S.C. 10706(d)(2)(A).

While the agreements are not approved, we will extend (pending decision on the amended agreements to be filed in conformance with this decision) antitrust immunity to the operations of the rate bureaus insofar as they comply with this decision. Where the activities of the carriers do not conform with this decision, there is no antitrust immunity.

To purchase copies of the complete decision, contact T.S. Info Systems, Inc., Room 2227, 12th & Constitution Ave., Interstate Commerce Commission, Washington, D.C. 20423, (202) 289-4357, D.C. Metropolitan area; (800) 424-5403, Toll free for outside D.C. area.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10706(a))

Dated: July 23, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Andre concurred in the result with a separate expression.

Agatha L. Mergenovich.

Secretary.

Commissioner Andre, concurring in the result:

The Staggers Rail Act has established a complex and comprehensive set of rules to govern collective ratemaking. The Commission and the railroads are afforded far less discretion than the length of this opinion and the debate surrounding it would suggest. By and large what is accomplished here is no more than the implementation of the statutory scheme. I concur in this result.

I have, however, reservations, some practical, some on principle. To the extent that we have fleshed out the statutory skeleton, I will remain open to reconsideration of our rules where they can be shown to be impractical or unworkable. As to principles, all parties seem to proceed from the asumption that cooperative ratemaking is, at the least, a dangerous practice that requires careful regulation. And, for this case, the Staggers Act may indeed foreclose any other viewpoint. Still, these issues are being actively debated in the motor carrier field. I believe that debate presents an important opportunity to reconsider the arguments for government regulation of cooperatively set rates.

I do not wish to be seen to undermine that opportunity by uncritically accepting all the implications of purported anticompetitive harm that are interwoven in our opinion. Consequently, my concurrence is limited to the implementation of the Staggers Act.

[FR Doc. 82-22321 Filed 8-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 217)]

Burlington Northern Railroad Company Exemption for Contract Tariff ICC-BN-C-0047 (Lumber and Related Articles)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register**.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101(a) or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: August 11, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-22326 Filed 8-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-146N)]

Conrail Abandonment in Kankakee County, IL; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between ICG Junction and Waldron Road and between Kankakee Bridge and Cincinnati-Kankakee main line in the County of Kankakee, IL, a total distance of 3.9 miles effective on March 12, 1982.

The net liquidation value of this line is $7,715. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-22327 Filed 8-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 344N)]

Conrail Abandonment Between Kings Bridge and Chauncey, NY; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Kings Bridge and Chauncey in the Counties of Westchester and Bronx, NY, a total distance of 11.4 miles effective on July 15, 1982.

The net liquidation value of this line is $3,219,551. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-22328 Filed 8-16-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers Decision-Notice; Finance Applications

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,*

363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is nither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplication an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or theapplication of a non-complying applicant shall stand denied.

Dated: August 10, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC-F-14916, filed July 26, 1982. WESTHOFF, INC. (Westhoff) (120 Livestock Exchange Bldg., Sioux City, IA 51107)—PURCHASE (PORTION)—ECKLEY TRUCKING, INC. (Eckley) (P.O. Box 156, Mead, NE 68041). Representatives: D. Douglas Titus, 340 Insurance Exchange Bldg., Sioux City, IA 51101; and A. J. Swanson, 210 Van Brunt Bldg., Sioux Falls, SD 57101. Westhoff seeks authority to purchase a portion of the interstate operating rights of Eckley. William J. Westhoff, the sole stockholder of Westhoff, seeks authority to acquire control of said rights through the transaction. Westhoff is purchasing Eckley's Certificate No. MC-5227 (Sub 65), which authorizes the transportation of (1) *malt beverages,* from Milwaukee, WI, and Peoria Hts., IL, to points in KS, MN, NE, IA, CO, MO, OK, and AR; (2) *equipment, materials, and supplies* used in the production and distribution of malt beverages, from points in KS, MN, NE, IA, CO, MO, OK and AR, to Milwaukee, WI and Peoria Hts., IL; and (3) *containers,* from Northglenn, CO, to points in WI, IL, GA, and NJ.

Notes.—(L) Transferee is a common carrier under MC-157610. (2) TA has been filed.

[FR Doc. 82-22322 Filed 8-16-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision-Notice, Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affected the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the tranfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the

transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79915. By decision of July 21, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to BESTWAY FREIGHT LINES, INC., of Certificate No. MC–30464 and (Sub-No. 1) issued to RAPID TRANSIT CO., INC. authorizing the transportation of *general commodities,* with exceptions, (1) over irregular routes between East Hartford, Hartford, West Hartford, and Manchester, CT, on the one hand, and, on the other, point in CT, (2) over regular routes between New London, CT and Worcester, MA, between Central Village, CT and East Walpole, MA; between Danielson, CT and New Bedford, MA; between Putnam, CT and New Bedford and Fall River, MA; between Worcester, MA and Providence, RI, between Boston, MA and Middletown, CT; between Boston, MA and Meriden, CT between Boston, MA and Hartford, CT, and between Boston, MA and Oxford, MA; and (3) over irregular routes between the named points and places specified in part (2) above on the one hand, and, on the other, Willimantic, CT, Bradford, Hope Valley, Wakefield and LaFayette, RI, North Adams, Lawrence and Lowell, MA, Philadelphia, PA and points and places in MA within 15 miles of State House, Boston, MA, traversing NY and NJ for operating convenience only. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103.

Note.—Transferee is a non-carrier.

MC–FC–79931. By decision of July 29, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Powder River Transportation Services, Inc. of Gillette, WY of Certificate No. MC–142885 (Sub-No. 2) issued to Central Wyoming Transportation Co., Inc., of Casper, WY authorizing the transportation of (A) over regular routes, *passengers and their baggage, and express and newspapers* when moving in the same vehicle with passengers (1) between Casper and Rawlins, WY via WY Hwy 220 and US Hwy 287; and (2) between Casper and Medicine Bow, WY, via WY Hwys 220 and 487; and (B) over irregular routes, passengers and their baggage, in charter operations, beginning and ending at points in Carbon and Natrona Counties, WY, and extending to points in the United States. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304. TA lease is not sought. Transferee is not a carrier.

MC–FC–79941. By decision of July 29, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Valley Freight Lines, Inc. of Permits MC–143411 and Subs 2 and 3 thereunder issued to Valley Contract Carriers, Inc. both of McAllen, TX, authorizing (1) *fruit and vegetable juices and concentrates* (except commodities in bulk), from Weslaco, TX, to points in AZ, CA, CO, LA, NE, NV, NM, OK, OR, UT and WA, under continuing contract(s) with Texsun Corporation of Weslaco, TX, (2) *fruit and vegetable juices and concentrates* (except commodities in bulk), between points in the U.S., under continuing contract(s) with Texsun Corporation, of Weslaco, TX, and Fresh-Pak Foods, Inc., of McAllen, TX, and (3) food and related products, between points in the U.S., under continuing contract(s) with Texas Citrus Exchange, of Mission, TX. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. TA lease is not sought. Transferee is not a carrier.

MC–FC–79944. By decision of July 29, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Foley Moving Systems, Inc. of Cocoa, FL, of Certificate No. MC–143703 Sub-2 issued to Hammond Moving & Storage, Inc., of Cocoa, FL, authorizing: Used household goods, between points in Brevard, Osceola, Orange, Indian River, Martin, Okeechobee and St. Lucie Counties, FL, with *Kingpals* restrictions. Representative: McCarth Crenshaw, P.O. Box 1086, Jacksonville, FL 32201. TA lease is not sought. Transferee is not a carrier.

MC–FC–79940. By decision of July 29, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to KENNETH WOHLERS AND CAROLE WOHLERS, dba KIMCO EXPRESS, of Certificate No. MC–148692 (Sub-No. 3) issued to ZABEN TRANSIT, INC., authorizing the transportation of beverages in containers, and empty containers on return, from points in KY, IL, OH, and MI to Denver, CO. Representative: Gary C. White, 5320 Wadsworth Blvd., Arvada, CO 80002; Mark A. Davidson, 601 E. 18th Ave. #107, Denver, CO 80203.

Note.—Transferee is not a carrier. TA has not been sought.

MC–FC–79958. By decision of August 2, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Mountain Oil Transport, Inc. Permit No. MC–124841 (Sub-No. 7) issued to D. D. Jacobs, Inc. authorizing the transportation of (1) *frozen foods,* and *supplies and equipment* used in the manufacturer, storage, and distribution of frozen foods, between Milwaukee, Portland, Salem, Hillsboro, Woodburn, Ontario, Weston, Pendleton, and Milton, Freewater, OR, Walla Walla, Spokane, Quincy, Burlington, Wheeler and Connell, WA, and Heyburn, Nampa, Caldwell, Burley, Lewiston, and American Falls, ID, under a continuing contract(s) with Terminal Ice & Cold Storage Co., of Portland, OR; (2) *beet pulp,* from Wheeler, Moses Lake, Quincy and Toppenish, WA, to points in Umatilla County, OR, under a continuing contract(s) with Archie Harris Feed Lot, of Milton—Treewater, OR; and (3) *malt beverages* and *wine,* from points in CA, to Pendleton, OR, and Kennewich and Walla Walla, WA, under a continuing contract(s) with Pendleton Distributing Co., Granger Distributing Co., of Kennewick, WA, and Dee Dee Distributing Co., of Walla Walla, WA. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055.

Note.—Transferee is a non-carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–22323 Filed 8–16–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1982, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer

to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–137

Decided: August 4, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 161760, filed July 28, 1982. Applicant: M.J.D. TRUCKING, INC., P.O. Box 124, Coles Mill Road, Williamstown, NJ 08094. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 163001, filed July 13, 1982. Applicant: TERENCE DIETZLER, d.b.a. T AND K TRUCKING, Route 1, Bay City, WI 54723. Representative: Terence Dietzler (same address as applicant), (715)–594–3081. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163171, filed July 28, 1982. Applicant: D–L EXPRESS, 8508 Garfield Blvd., Garfield Hts, OH 44125. Representative: Robert A. Hecey (same address as applicant), (216) 441–2000. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP2–183

Decided: August 10, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 150312 (Sub-1), filed July 28, 1982. Applicant: HAROLD A WALKER, d.b.a. TRANSAMERICAN DISTRIBUTORS, 4956 101st St., Grand Junction, MI 49056. Representative: Patrick H. Smyth, 105 West Madison, Suite 1008, Chicago, IL 60602, (312) 263–2397. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., (except AK and HI). (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S., (except AK and HI), and (3) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

Volume No. OP3–126

Decided: August 11, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Fisher not participating.)

MC 154464 (Sub-5), filed August 2, 1982. Applicant: B–HI TRANSPORT, INC., Post Office Box 1227, Searcy, AR 72143. Representative: Larry Bowen (same address as applicant) (501) 268–3897. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), (2) of *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 163204, filed July 30, 1982. Applicant: OLAND FRANKLIN BARNES, JR., d.b.a. TARHEEL TRAFFIC CONSULTANTS, 6638 B Lakehill Drive, P.O. Box 20275, Raleigh, NC 27619. Representative: Oland Franklin Barnes, Jr., (same address as applicant) (919) 878–0447. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163224, filed August 2, 1982. Applicant: ROBERT L. BOURNE, 225 Prospect St., Easton, MA 02334. Representative: Robert L. Bourne (same address as applicant) (617) 583–0613. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP4–297

Decided: August 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 149576 (Sub-19), filed July 30, 1982. Applicant: TRANS AMERICAN TRUCKING SERVICE, INC., P.O. Box 1247, Nixon Station, Edison, NJ 08818. Representative: Ronald McGraw (same address as applicant) (201) 985–2182. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials,

sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 163166, filed July 27, 1982. Applicant: GLEN COOMBE, d.b.a. PROFESSIONAL DRIVER SERVICES, 2311 Lakeshore Blvd. West, Toronto, Ontario Canada M8V 1A6, (416) 252–1444. Representative: Glen Coombe (same address as applicant), (416) 252–1444. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-22324 Filed 8-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Vol. No. 287]

Motor Carriers Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: August 10, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

FF–516 (Sub-2)X, filed August 2, 1982. Applicant: SAM–SON DISTRIBUTION CENTER, INC., 290 Larkin St. Buffalo, NY 14202. Representative: Brian S. Stern, 5411–D Backlick Rd., Springfield, VA 22151. Lead permit. Broaden: general commodities, with exceptions, to "general commodities (except classes A and B explosives)"; one-way to radial authority; ports of entry on the international boundary line between US/Canada at Buffalo and Niagara Falls, NY, to ports of entry on the international boundary line between US/Canada located in NY; and remove restriction to transportation of traffic moving through Buffalo, NY facilities.

MC 148560 (Sub-10)X, filed August 2, 1982. Applicant: GOLD STAR, INC., 130 Davidson Ave., Somerset, NJ 08873. Representative: A. David Millner, P.O. Box Y, 7 Becker Farm Road, Roseland, NJ 07068. No. MC–59806 (Sub 24)X, part (2)(a) (acquired in MC–F–14845): broaden to (A) "food and related products" from flavoring syrup in bulk, in tank vehicles, and, (B) "between points in the U.S. (except AK and HI)," under continuing contract(s) with unnamed shippers.

[FR Doc. 82-22325 Filed 8-16-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period August 2, 1982–August 6, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–12,987; Tru-Balance Corsets, Inc., New York, NY

TA–W–12,428; Helen Coat Co., Inc., Hoboken, NJ

Affirmative Determination

TA–W–13,104; U.S. Steel Crop., Fairless Works, Fairless Hills, PA

A certification was issued in response to a petition received on November 19, 1981 covering all workers producing hot & cold carbon steel and strip (including band & skelp), carbon steel wire rod, bar mill products, galvanized sheet & basic semi-finished steel separated on or after April 1, 1981 and before December 31, 1982 and all workers producing welding pipe and tubing separated on or after January 24, 1982 and before December 31, 1982.

I hereby certify that the aforementioned determinations were issued during the period August 2, 1982–August 6, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 10, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-22368 Filed 8-16-82; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period July 26, 1982–July 30, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–12,990; Wharram Manufacturing Co., Flint, MI

TA–W–12,991; Wirtz Manufacturing Co., Port Huron, MI

TA–W–12,660; Fluid & Electric Control Co., Fenton, MI

TA–W–12,667; Dubach Manufacturing Co., Magnolia, AR

TA–W–12,914; Perrini Brothers Knitting Mills, Inc., Ridgewood, NY

TA–W–12,972; Loungewear By Georgie Keyloun, Inc., New York, NY

TA–W–13,000; Hefty Tractor Co,. Inc., Juneau, WI

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–12,022; Hampshire Manufacturing Co., Nashua, NH

Aggregate U.S. imports of rubber and vinyl protective footwear did not increase as required for certification.

TA–W–12,986; Grand Transformers, Inc., Colma, MI

Aggregate U.S. imports of power and distribution transformers are insignificant relative to U.S. production.

TA–W–12,993; Allis-Chalmers Corp., Tractor Div., West Allis, WI

Aggregate U.S. imports of agricultural tractors, 100 horsepower and over, are insignificant relative to U.S. production.

Affirmative Determinations

TA–W–12,400; Robert Shoe, Inc., Somersworth & Lancaster, NH

A certification was issued in response to a petition received on March 3, 1981 covering all workers separated on or after February 25, 1980.

TA–W–12,775; Elco Coat Co., Inc., New York, NY

A certification was issued in response to a petition received on June 17, 1981 covering all workers separated on or after September 1, 1980.

TA–W–12,887; Royal Park, Inc., Borger, TX

A certification was issued in response to a petition received on July 29, 1981 covering all workers separated on or after July 22, 1980.

TA–W–12,951; Smart Modes, Inc., Madison-7, Inc., Los Angeles, CA

A certification was issued in response to a petition received on August 25, 1981 covering all workers separated on or after August 19, 1980.

TA–W–12,891; Lancaster Glass Corp., Lancaster, OH—Main Plant

A certification was issued in response to a petition received on August 5, 1981 covering all workers separated on or after July 30, 1980.

TA–W–12,892; Lancaster Glass Corp., Lancaster, OH—Park Plant

A certification was issued in response to a petition received on August 5, 1981 covering all workers separated on or after July 30, 1980.

TA–W–12,540; Knit Studios, U.S.A., Inc., Carlstadt, NJ

A certification was issued in response to a petition received on February 11, 1981 covering all workers separated on or after October 30, 1980 and before March 1, 1981.

TA–W–12,550; Venice, Inc., Carlstadt, NJ

A certification was issued in response to a petition received on February 11, 1981 covering all workers separated on or after October 30, 1980.

TA–W–12,984 and TA–W–12,984A; Tobin Hamilton Co., Inc,. Mansfield and Birchtree, MO

A certification was issued in response to a petition received on September 15, 1981 covering all workers producing shoe uppers separated on or after July 3, 1981.

I hereby certify that the aforementioned determinations were issued during the period July 26, 1982–July 30, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 3, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82–22369 Filed 8–16–82; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M–82–23–M]

Cathedral Bluffs Shale Oil Co.; Petition for Modification of Application of Mandatory Safety Standard

Cathedral Bluffs Shale Oil Company, P.O. Box 2687, Grand Junction, Colorado 81501 has filed a petition to modify the application of 30 CFR 57.19–22 (hoist rope requirements) to its Federal Prototype Oil Shale Lease Trace C-b (I.D. No. 05–03140) located in Rio Blanco County, Colorado. The petition is filed under Section 101(c) of the Federal Mine Safety Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the end of the rope at the drum make at least one full turn on a drum shaft, or a spoke of the drum in the case of a free drum and be fastened securely by means of rope clips or clamps.

2. Petitioner states that application of the standard would result in a diminution of safety because:

a. In short radius bends, which will result if the ⅞ inch wire rope is bent around the spoke of the drum, the entire rope structure is disturbed and the strength of the rope is greatly reduced;

b. The drum spokes contain 90° angles that could subject the rope to undue stress from vibrations of high speed hoisting equipment; and

c. The limited access of the drum construction presents hazards to rope handling personnel if the rope is secured to the drum shaft.

3. As an alternative method, petitioner proposes to:

a. Bring the wire rope through the drum and secure it by two sets of machine clamps, which are welded to the inner portion of the drum itself;

b. Secure the clamps by four, one-inch-diameter bolts per clamp; and

c. Maintain at least 15 full turns of wire rope on the drum.

4. Petitioner states that the alternative method will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 16, 1982. Copies of the

petition are available for inspection at that address.

Dated: August 6, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-22370 Filed 8-16-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-24-M]

Lexington Quarry Co.; Petition for Modification of Application of Mandatory Safety Standard

Lexington Quarry Company, Catnip Hill Road, Nicholasville, Kentucky 40356 has filed a petition to modify the application of 30 CFR 57.4-75 (slippage and sequence switches on belt conveyors) to its mine (I.D. No. 15-06264) located in Jessamine County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that belt conveyors be equipped with slippage and sequence switches.

2. As an alternative to installing slippage and sequence switches on belt conveyors, petitioner proposes the use of four new belt conveyors equipped with amp meters, shutdown switches, and gravity-type takeups to prevent slippage. The conveyor operator will monitor two of the conveyors at all times and the conveyor belt maintenance personnel will monitor the remaining two conveyors. The conveyors will run past the shop in full view of the shop employees.

3. Petitioner states that the proposed alternative method will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 16, 1982. Copies of the petition are available for inspection at the address.

Dated: August 6, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-22371 Filed 8-16-82; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Music Panel (New Music Performance Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Panel (New Music Performance Section) will be held on September 1, 1982 from 9:30 a.m.-5:30 p.m., September 2, 1982 from 9:30 a.m.-5:30 p.m. and September 3, 1982 from 9:30 a.m.-5:30 p.m. in room 1426 in the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C.

A portion of this meeting will be open to the public on Friday, September 3, 1982 from 3:00 p.m.-5:30 p.m. to discuss guidelines and policy.

The remaining sessions of this meeting on September 1, 1982 from 9:30 a.m.-5:30 p.m., September 2, 1982 from 9:30 a.m.-5:30 p.m., September 3, 1982 from 9:30 a.m.-3:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

August 9, 1982.

[FR Doc. 82-22442 Filed 8-16-82; 8:45 am]

BILLING CODE 7537-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 01/01-0316]

Advent IV Capital Co.; Issuance of License

On October 26, 1981, a Notice was published in the **Federal Register** (46 FR 52267) stating that an application had been filed by Advent IV Capital Company, 111 Devonshire Street, Boston, Massachusetts 02901, with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (SBIC's) under the provisions of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business November 10, 1981, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, the SBA issued License No. 01/01-0316 to Advent IV Capital Company, to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: August 11, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-22316 Filed 8-16-82; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council; Public Meeting

The Small Business Administration, Region VII Advisory Council, located in the geographical area of Wichita, Kansas, will hold a public meeting at 10:00 a.m., on Friday, August 27, 1982, at the Small Business Administration Conference Room, 110 East Waterman, Wichita, Kansas, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Clayton Hunter, District Director, U.S. Small Business Administration, 110 East Waterman, Wichita, Kansas (316) 269-6566.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

August 11, 1982.

[FR Doc. 82-22318 Filed 8-16-82; 8:45 am]

BILLING CODE 8025-01-M

Region IX Las Vegas District Advisory Council; Public Meeting

The Small Business Administration, Las Vegas District Advisory Council will hold a public meeting on September 29, 1982, at the Small Business Administration Office, located at 301 E. Stewart Street, Las Vegas, Nevada, from 11:00 a.m. to 12:30 p.m. to discuss such matters as may be presented by Council members, staff of the Small Business Administration, or others present.

For further information, write or call Marie Papile, U.S. Small Business Administration, 301 E. Stewart, Las Vegas, Nevada 89101 (702) 385–6611.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

August 11, 1982.

[FR Doc. 82-22319 Filed 8-16-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2058]

Tennessee; Declaration of Disaster Loan Area

Knox County in the State of Tennessee constitutes a disaster area as a result of damage caused by flooding which occurred on July 31, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 7, 1982, and for economic injury May 6, 1983, at the address below: Small Business Administration, Fidelity Bankers Building, Room 309, 502 South Gay Street, Knoxville, Tennessee 37902, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

Homeowners with credit available elsewhere, 14¾%

Homeowners without credit available elsewhere, 7⅜%

Businesses with credit available elsewhere, 15½%

Businesses without credit available elsewhere, 8%

Businesses (EIDL) without credit available elsewhere, 8%

Other (non-profit organizations including charitable and religious organizations), 11½%

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: August 6, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-22317 Filed 8-16-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 818]

Fishery Conservation and Management Act of 1976; Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the **Federal Register.**

Individual vessel applications for fishing in 1982 have been received from the Governments of the Union of Soviet Socialist Republics, the German Democratic Republic, Portugal, Greece, The Netherlands, Italy, Japan, and Taiwan.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F/CM7), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 (Telephone: (202) 634–7432).

Dated: August 6, 1982.

James A. Storer,

Director, Office of Fisheries Affairs.

Fishery codes and designation of Regional Councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional Council
ABS	Atlantic Billfishes and Sharks	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA	Bering Sea and Aleutian Islands Trawl, Longline and Herring Gillnet.	North Pacific.
CRB	Crab (Bering Sea)	North Pacific.
GOA	Gulf of Alaska	North Pacific.
NWA	Northwest Atlantic	New England, Mid-Atlantic.
SMT	Seamount Groundfish (Pacific Ocean).	Western Pacific.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Washington, Oregon, California Trawl.	Pacific.
PBS	Pacific Billfish and Sharks	Western Pacific.

Activity codes specify categories of fishing operations applied for are as follows:

Activity Code and Fishing Operations

1 Catching, processing, and other support.
2 Processing and other support only.
3 Other support only.

Nation/vessel name/vessel type	Application No.	Fishery	Activity
JAPAN			
Eitan Maru, pot fishing vessel	JA–82–0830	BSA, GOA, SNA, NWA, SMT	1, 2, and 3.
GREECE			
Winderfrost, reefer	GR–82–0002	NWA	3.
This is a support vessel to allow transhipment of cargo on board the *De Giosa Giuseppe* (IT–82–0016–B) outside the 3-mile line U.S. territorial waters.			
THE NETHERLANDS			
Caracas Bay, reefer	NL–82–0005	NWA	3.
This is a support vessel to allow transhipment of cargo on board the *De Giosa Giuseppe* (IT–82–0016–B) outside the 3-mile line U.S. territorial waters.			
Joint Ventures			
ITALY			
De Giosa T., stern trawler/freezer catcher vessel	IT–82–0004	NWA	3.
This joint venture between Italy and I. Luie Fass, Fass Bros., Inc., 48 Water Street, Hampton, VA, may commence on April 1st 1982 and continue through the end of the calendar year. The United States and Italian joint venture parties are primarily only interested in Atlantic Squid: 800 m.t. of both Illex and Loligo.			
TAIWAN			
Golden Dragon No. 1, bottom trawler	TW–82–0004	BSA, GOA	1, 2, and 3.
Highly 303, refrigerated carrier	TW–82–0054	BSA, GOA	2 and 3.
Highly 707, refrigerated carrier	TW–82–0061	BSA, GOA	2 and 3.
Sea Light, bottom trawler	TW–82–0001	BSA, GOA	1, 2, and 3.
Chief Dragon 737, refrigerated vessel	TW–82–0055	GOA	2 and 3.

Nation/vessel name/vessel type	Application No.	Fishery	Activity
The Chong Shing Ocean Enterprise Corp., Taiwan and Swiftsure Fisheries, U.S.A., an affiliate of Koniag Inc., Alaska, have applied to engage in a joint venture of fishery aimed at producing 200 m.t. All Flounders, 1,000 m.t. Pollock, 6,000 m.t. Pacific Cod, 1,600 m.t. Sable Fish, 1,000 m.t. Rockfish and 200 m.t. Others, between the months of August 1st, 1982 through December 31, 1982.			
GERMAN DEMOCRATIC REPUBLIC			
F. C. Weiskopf, stern trawler/factory ship	GC-82-0030	NWA	1 and 2.
Peter Nell, stern trawler/factory ship	GC-82-0022	NWA	1 and 2.
Willi bredel, stern trawler/factory ship	GC-82-0024	NWA	1 and 2.
Arnold Zweig, stern trawler/factory ship	GC-82-0046	NWA	1 and 2.
The German Democratic Republic and Mr. William Quinby, President, Joint Trawlers (North America) Ltd., P.O. Box 1209, Gloucester, MA 01930, have applied to engage in a joint venture fishery aimed at producing 10,000 m.t. of Atlantic Mackerel between the months of August, 1982 and March, 1983.			
PORTUGAL			
Joao Alvares Fagundes, stern trawler	PO-82-0004	NWA	1, 2, and 3.
Portugal and Mr. William Quinby, President, Joint Trawlers (North America), Ltd., P.O. Box 1209, Gloucester, MA 01930 have applied to engage in a joint venture fishery aimed at producing 5,000 m.t. of Illex Squid and 2,000 m.t. of Lolligo Squid between the months of August 1, 1982 and December 31, 1982.			
PORTUGAL			
Coimbra, large stern trawler	PO-82-0009	NWA	1, 2, and 3.
Navegante, large side trawler	PO-82-0006	NWA	1, 2, and 3.
Inacio Cunha, large stern trawler	PO-82-0003	NWA	1, 2, and 3.
Lutador, OTB-2, OTB-3	PO-82-0012	NWA	1, 2, and 3.
Vimieiro, OTB-2/GNS	PO-82-0013	NWA	1, 2, and 3.
Luis Ferreira de Carvalho, OTB-2, OTB-3	PO-82-0005	NWA	1, 2, and 3.
Adelia Maria, OTB-2, OTB-3	PO-82-0014	NWA	1, 2, and 3.
Elisabeth, OTB-2, OTB-3	PO-82-0015	NWA	1, 2, and 3.
Vila do Conde, OTB-2, OTB-3	PO-82-0008	NWA	1, 2, and 3.
U.S.S.R.			
Sarma, factory/freezer	UR-82-0744	NWA	2 and 3.
Albatros, factory/freezer	UR-82-0743	NWA	2 and 3.
The U.S.S.R. and Mr. Richard N. Sharood of the Mid-Atlantic Fishery Export Corp have allied to engage in a joint venture fishery aimed at producing 8,000 m.t. Atlantic Mackerel between the months of August 1st, 1982–December 31, 1982, and 10,000 m.t. Atlantic Mackerel, January 1–March 31, 1983, 13,000 m.t. of Silver Hake between the months of August 1, 1982–December 31, 1982 and 10,000 m.t. of Red Hake between the months of August 1, 1982–December 31, 1982.			

[FR Doc. 82-22208 Filed 8-16-82; 8:45 am]
BILLING CODE 4710-09-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 159
Tuesday, August 17, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, August 17, 1982

CHANGES IN THE MEETING: Cancelled

[S–1178–82 Filed 8–13–82; 11:53 am]

BILLING CODE 6351–01–M

2

OVERSEAS PRIVATE INVESTMENT CORPORATION

Meeting of the Board of Directors.

TIME AND DATE: Meeting of the OPIC Board of Directors: Tuesday, August 24, 1982 at 8:30 a.m. (closed portion): 11:00 a.m. (open portion).

PLACE: Offices of the Corporation. Seventh floor Board Room: 1129 20th Street N.W., Washington, D.C.

STATUS: The first part of the meeting from 8:30 a.m. to 11:00 a.m. will be closed to the public. The open portion of the meeting will start at 11:00 a.m.

MATTERS TO BE CONSIDERED: (Closed to the Public 8:30 a.m. to 11:00 a.m.):

1. Overview of OPIC's Operations, Strategic Plan, Goals and Results.
2. Proposed Budget for FY84 and Proposed Amendments to Budget for FY83.
3. Insurance Project in African Country.
4. Finance Project in East Asian Country.
5. Claims Report.
6. Information Reports: General.
7. Information Report: Project status.

FURTHER MATTERS TO BE CONSIDERED: (Open to the Public 11:00 a.m.)

1. Approval of the Minutes.
2. Confirmation of Scheduled Board Meetings.
3. Personnel Actions.
4. Determination of Countries Qualifying as Developing Countries for OPIC Programs.
5. Financial Statements.
6. Information Reports.

CONTACT PERSON FOR INFORMATION: Information with regard to this meeting may be obtained from the Secretary of the Corporation at (202) 653–2925.

August 12, 1982.

Elizabeth A. Burton,

Corporate Secretary.

[S–1177–82 Filed 8–12–82; 4:25 pm]

BILLING CODE 3210–0–M

federal register

Tuesday
August 17, 1982

Part II

Federal Election Commission

Presidential Primary Matching Fund; Proposed Regulations

FEDERAL ELECTION COMMISSION

11 CFR Parts 106 and 9031 through 9039

[Notice 1982-6]

Presidential Primary Matching Fund

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission requests comments on proposed rules to govern its administration of the Presidential Primary Matching Fund pursuant to 26 U.S.C. 9031 *et seq.* The proposed regulations would revise the provisions of current 11 CFR Parts 9031 *et seq.*, in light of the 1979 amendments to the Federal Election Campaign Act of 1971 and the Commission's experiences during the 1980 election. The revision would clarify the current submission and certification procedures to ensure that candidate submissions for matching funds are processed promptly and that matching funds are distributed properly. Furthermore, the proposed rules would address issues not covered in the current regulations, such as joint fundraising activities involving candidates receiving matching funds and the valuation of certain fundraising assets, e.g. artwork, at the conclusion of the campaign. In addition to the proposed rules in this Notice, the Commission would like to receive comments on several issues which were not addressed in this draft. Further information on the proposed revisions is provided in the supplemental information which follows.

DATE: Comments must be received on or before September 16, 1982.

ADDRESS: Susan E. Propper, Assistant General Counsel, 1325 K Street, N.W. Washington, D.C. 20463.

FOR FURTHER INFORMATION CONTACT: Susan E. Propper, Assistant General Counsel, (202) 523-4143.

SUPPLEMENTARY INFORMATION: The proposed rules represent an attempt by the Commission to re-evaluate the various stages of the primary matching fund process. The intent of the proposed revision is to clarify, and when possible simplify, the Matching Fund regulations to facilitate compliance with its provisions. Hence, a primary goal of the revision is to provide workable rules to govern many of the areas which have caused uncertainty in the past. The proposed rules would also provide a fuller explanation of the certification and audit processes. Moreover, a third focus of the draft regulations is the addition of new provisions to cover aspects of the Presidential primary process not previously addressed.

With broad goals such as these, the proposed rules offer many new possible solutions to concerns that have been raised over the last two Presidential election cycles. While the Commission welcomes comments on particular applications of the draft rules, it is also interested in commentary on the overall approaches suggested here.

For example, the draft includes a proposed revision of the state expenditure allocation requirements. Under the current rules, few guidelines are provided for candidates in allocating expenditures under the state limits set forth in 2 U.S.C. 441a(b). This approach has resulted in considerable Commission involvement in the various methods used by candidates under this section. In contrast, the draft revision of 11 CFR 106.2 proposes a system which would establish definite procedures for allocating particular types of expenditures. Under the proposed rules, certain expenditures such as costs for media production, compliance, and fundraising would be exempted from the state by state allocation requirements. Furthermore, the proposed regulations would establish a category of national campaign expenses which need not be allocated under § 106.2. The Commission requests comments on this possible shift in approach in addition to comments on the impact of the specific rules suggested.

A technical amendment to 11 CFR 106.3 has also been proposed to specify that its provisions are not applicable to candidates receiving matching funds.

Similarly, in proposed 11 CFR 9033.10 all the provisions for written hearings regarding candidates' eligibility to receive matching funds now contained in five separate sections would be consolidated into one section of the regulations. The time limits for responses by the candidates, however, have been retained in the substantive sections concerning eligibility determinations. The proposed rules would also specify that an eligibility determination made pursuant to 11 CFR 9033.10 is independent of any Commission decision to institute an enforcement proceeding under 2 U.S.C. 437g.

For purposes of providing greater clarity in the regulations, the documentation requirements for disbursements have been placed in a separate section in this draft, at 11 CFR 9033.11. Section 9033.11 as proposed would also contain an enumeration of the records a candidate must keep of receipts and disbursements as an attempt to provide a more complete list of the materials the Commission may require during the mandatory audit. While the Commission must ensure that matching funds are spent solely for qualified campaign expenses, the Commission is cognizant of the need to balance requirements for detailed documentation with an avoidance of over-specificity in the regulations. The Commission therefore requests public comment on how to enforce this requirement without undue burden on committees while still ensuring that needed records are available for Commission inspection.

The proposed rules would also revise the Presidential Primary Matching Fund regulations to clarify and more closely reflect the actual procedures involved in the submission of contributions and certification of matching funds. For example, 11 CFR Part 9036 would be reorganized to clarify and consolidate the provisions on submitting contributions for matching purposes. 11 CFR 9036.1 has been expanded in the proposed regulations to include all provisions governing threshold submissions, including the timing and format for such submissions. The proposed revisions to 11 CFR 9036.1(c) are intended to clarify the current process under which the Commission certifies matching funds during both election and non-election years. In addition, the time for certification would be enlarged under 11 CFR 9036.2, and 11 CFR 9036.2(c) would be revised to make it clear that the Commission's holdback procedures in certifying funds would apply only during the candidate's period of eligibility.

Furthermore, the proposed regulations establish procedures for conducting joint fundraising activities involving candidates receiving matching funds. Several sections of the regulations would be revised to specify that contributions from joint fundraising efforts conducted in accordance with these procedures are fully matchable and must be included in a candidate's statement of net outstanding campaign obligations. The proposed rules would also provide that, a candidate's failure to include funds received from a joint fundraiser in his or her statement of net outstanding campaign obligations could be a basis for a repayment determination under 11 CFR 9038.2.

The draft regulations also contain proposed revisions to 11 CFR Part 9038. 11 CFR 9038.1 would be revised to detail more fully the process involved in conducting a mandatory audit at the end of the matching payment period. Specifically, this section would describe the fieldwork underlying an audit, as

well as the preparation, contents and public release of an audit report.

Candidates would continue to have an opportunity to contest or comment on the audit report prior to its release to the public. Additional provisions would explain the interaction of the audit and the compliance procedures under 2 U.S.C. 437g and the connection between a mandatory audit and any repayment determination under 11 CFR 9038.2 based upon its results. In addition to providing candidates an opportunity to contest the Commission's initial repayment determination, the proposed rules to revise 11 CFR 9038.2 would provide that candidates who have submitted written statements may be granted an oral hearing upon the affirmative vote of four Commission members. It is intended that the Commission would promulgate procedures for each individual hearing.

Moreover, the proposed revision also contains provisions to implement 26 U.S.C. 9039 which authorizes the Commission to require candidates to retain relevant records and information and to conduct discretionary audits and investigations to carry out its responsibilities in administering the Primary Matching Fund Act. Proposed 11 CFR 9039.1 would require candidates and their authorized committees to furnish all books and records required to be kept under the regulations to the Commission upon request. The proposed rules would also explain the routine review process involved in administering the Fund. Also, the draft sets forth proposed procedures under which any investigtion or discretionary audit would be conducted and provides that the information obtained could be the basis for a repayment determination or an enforcement action.

In addition, the proposed regulations contain several provisions to address other issues which arose during the 1980 election. One revision would establish a procedure for including donated artwork or other items of substantial value in a candidate's statement of net outstanding campaign obligations and provide a formula for determining the value of such assets. It would also increase the dollar value of the capital assets exclusion under 11 CFR 9034.5 from $500 to $1,000. Also, the provisions on campaign travel and media reimbursement of the General Election Financing regulations (11 CFR 9004.6 and 9004.7) have been incorporated into the Primary Matching Fund regulations in the proposed revisions.

The Commission also requests comments on five issues which have not been addressed in this draft. Two of these issues are concerned with matchability of certain contributions and assessment of interest. The other three issues relate to possible modifications of the matching fund procedures. While no decision has been made to implement any of these proposals, the Commission is concerned about the best use of candidate and Commission resources during the primary election cycle. Therefore, these proposals are described to elicit comments on ways to streamline the matching fund process.

Matchability of Certain Contributions

First, the Commission seeks public comment on whether contributions which are submitted in the form of money orders; which originate as the price of a concert ticket; or which are "induced" by the sale of an item should be matched and in particular, whether such contributions should be viewed as matchable in a Threshold Submission to establish eligibility in any of the requisite 20 States.

Assessment of Interest

A second consideration is whether the Commission should assess interest against candidates who make late repayments.

Matching Fund Procedures

Letter Requests

The first proposal under consideration pertains to the use of Letter Requests and supporting bank documentation in lieu of a full matching fund submission on a designated submission date for an eligible candidate. The Letter Request could specify the amount of matchable contributions that have been received after those submitted on the previous full matching fund submission and which are expected to be included and documented on the next submission. Based on the Letter Request, a payment would be certified which may be less than that requested. On the submission date following that of the letter request, a full matching fund submission would be made covering the period of the letter request and the current submission.

This proposal would in effect reduce by almost 50% the number of matching fund submissions that the candidate must prepare and that the Commission must review and process, while still providing for twice monthly matching fund payments to the candidate. The amount certified for a Letter Request would then be deducted from the amount to be certified on the next full submission.

As presently conceived, a Letter Request would be accompanied by documentation such as bank validated deposit slips which represent deposits of contributions from individuals received between the cutoff date of the previous submission and the last such deposit on the business day immediately preceding the date of the request.

For a regular matching fund submission, the Commission applies a holdback percentage based on the average error rate from the four (4) previous submissions. For a Letter Request, the Commission is considering placing a limitation on the amount that it will certify. The Commission is considering basing this amount upon the percentage of the verified matchable amount of contributions contained on the last submission to total deposits of indivudual contributions as reflected in the bank documentation for that submission. Although the candidate would be receiving a payment, based on a full submission, fourteen days after the Letter Request payment, the Commission is concerned that placing such a limitation on the amount it will certify may deny matching funds for a two week or more period in a case where the percentage of matchable contributions contained in the deposits may be exceptionally high. To offset this potential drawback, one alternative would be to allow the Letter Request to cover matchable contributions contained in deposits up to the last business day before the Letter Request. Therefore, the candidate would receive matching funds based upon the above described percentage for contributions that are yet being processed within the candidate's matching fund system. Another possibility would be to allow candidates to choose between making a letter request and a regular submission on those submission dates scheduled for letter requests.

Rejection Criteria

The second proposal on which the Commission seeks comment is the possible reestablishment of rejection criteria for matching fund submissions which have an error rate in excess of 15%. During the 1980 Presidential election cycle, the Commission expended considerable resources in reviewing matching fund submissions which contained a high percentage of non-matchable contributions. Under the proposed procedure, where the initial, or pilot, sample indicates a submission has an error rate in excess of, for example, 15%, the submission would be rejected from further review and returned to the candidate for corrective action. The candidate would be provided a Notice of types of non-matchable contributions identified in the sample and then have

the option of making corrections or withdrawing the submission entirely. For an eligible candidate, a holdback payment would already have been certified. If the submission is not corrected and returned to the Commission, the amount previously paid would be adjusted from the payment to be certified for the next submission presented. Given the timing of the matching fund process, the candidate would have approximately one week to correct and return the submission before any delay or adjustment in a subsequent payment would occur. A rejected submission could be returned, however, at anytime after the candidate believed adequate corrections has been made.

It should be noted that the rejection criteria applied in 1976 was seldom used. However, if rejection criteria are not implemented, the Commission may consider expanding the time for review of submissions where the error rate exceeds 15% from fifteen to twenty-five business days due to the greatly increased processing time required for such submissions. An increase in the time for review may be particularly important with respect to ineligible candidates where only the actual matchable amount of a submission would be certified following the review and processing of a submission.

Submissions by Ineligible Candidates

A third proposal, based on the more effective use of Commission resources, is also being considered by the Commission. This would limit an ineligible candidate to one submission per month. If adopted, this procedure would not be operative until 30 days after the candidate's date of ineligibility. The candidate would thus be permitted two submissions during the first thirty days after his ineligibility date to submit any contributions which were backlogged. Thereafter the cycle would be once a month. Before deciding if such a procedure should be instituted, the Commission will weigh any potential hardships to individual candidates against the administrative benefits which could be expected.

Overall, in the interests of the smooth and efficient administration for both the candidates and the Commission, the Commission hopes that the proposed rules will elicit constructive suggestions from those individuals who are interested in the matching fund process, including those who have previously participated in it.

The Commission will hold hearings on the proposed revisions of the Primary Matching Fund Regulations on Wednesday September 29, 1982. Persons interested in testifying at this hearing should so indicate in their written comments on the proposed rules.

List of Subjects

11 CFR Parts 9031 Through 9035

Campaign funds, Political candidates, Elections.

11 CFR Parts 9036 Through 9039

Administrative practice and procedure, Campaign funds, Political candidates.

PART 106—ALLOCATIONS OF CANDIDATE AND COMMITTEE ACTIVITIES

1. It is proposed to amend 11 CFR Part 106 by revising §§ 106.2 and 106.3 as follows:

§ 106.2 State allocation of expenditures incurred by authorized committees of presidential primary candidates receiving matching funds.

(a) *General.* This section applies to Presidential primary candidates receiving Federal matching funds pursuant to 11 CFR Parts 9031 *et. seq.* Except for expenses exempted under paragraph (c) of this section, expenditures incurred by a candidate's authorized committee(s) for the purpose of influencing the nomination of that candidate for the office of President with respect to a particular State shall be allocated to that state. This allocation shall not necessarily be determined by the State in which the expenditure is incurred or paid.

(b) *Method of allocation among states.*—(1) *General Allocation Method.* Unless otherwise specified under paragraph (b)(2) of this section, an expense incurred by a candidate's authorized committee(s) for the purpose of influencing the nomination of that candidate in one or more States shall be allocated to each state in proportion to the voting age population in each state that can reasonably be expected to be influenced by that expenditure.

(2) *Specific allocation methods.* Expenditures that fall within the categories listed below shall be allocated based on the following methods.

(i) *Media expenses.*—(A) *Print Media.* Except for expenses exempted under paragraph (c) of this section expenditures for the publication and distribution of newspaper, magazine and other types of printed advertisements distributed in more than one State shall be allocated to each State in proportion to the estimated readership of voting age which can reasonably be expected to be influenced by these advertisements. This allocation of expenses, including any commission charged for the purchase of print media, shall be made using relative circulation percentages in each state or an estimate thereof. For purposes of this section, allocation will not be required for any state in which the advertisement is circulated to less than 3% of the total estimated readership.

(B) *Broadcast media.* Except for expenses exempted under paragraph (c) of this section, expenditures for radio, television and similar types of advertisements purchased in a particular media market that covers more than one state shall be allocated to each State in proportion to the estimated viewing audience which can reasonably be expected to be reached by the broadcast. This allocation of costs, including any commission charge for the purchase of broadcast media, shall be made using industry market data.

(C) *Refunds for media expenses.* Refunds for broadcast time or advertisement space, purchased but not used, shall be credited to the States on the same basis as the original allocation.

(D) *Limits on allocation of media expenses.* No allocation of media expenses shall be made to any State in which the primary election has already been held, or in which the primary election is held more than 60 days after the date of broadcast or distribution.

(ii) *Salaries.* Except for expenses exempted under paragraph (c) of this section, salaries paid to persons working in a particular state, including advance staff, shall be allocated to each State in proportion to the amount of time spent in that state during a payroll period.

(iii) *Intra-state travel and subsistence expenses.* Travel and subsistence expenses for persons working in a state shall be allocated to that State in proportion to the amount of time spent in each State during a payroll period. This same allocation method shall apply to intrastate travel and subsistence costs of the candidate and his family or the candidate's representatives.

(iv) *Overhead expenses.*—(A) *Overhead costs of state offices.* Except for expenses exempted under subsection (c), overhead costs of offices located in a particular State shall be allocated to that State. For purposes of this section, overhead costs include, but are not limited to, rent, utilities, office equipment, furniture, supplies, and telephone service charges.

(B) *Overhead costs of regional offices.* Except for expenses exempted under paragraph (c) of this section, overhead costs of a regional office or any office with responsibilities in two or more States shall be allocated to each state in proportion to the voting age population

of each State. For purposes of this section, overhead costs include but are not limited to, rent, utilities, office equipment, furniture, supplies, and telephone service charges.

(v) *Telephone service expenses.*—(A) *Telephone Service in State offices.* Expenses for telephone service in a State office shall be allocated to the state in which the service is used regardless of the destination of any telephone call.

(B) *Telephone service in regional offices.* Expenses for telephone service in a regional office with responsibilities in two or more States shall be allocated to each state in proportion to the voting age population in each state.

(C) *Toll free service in campaign headquarters.* Expenses for toll free service provided at National Campaign Headquarters to facilitate communication emanating from state and regional offices need not be allocated to each state.

(vi) *Transportation and services made available to media, secret service and similar personnel.* Expenses incurred by the candidate's authorized committee(s) to provide transportation and services for media, Secret Service and similar personnel within a state shall be allocated to that State. Reimbursement for such expenses shall be made in accordance with 11 CFR 9034.6 and may be deducted from the amount originally allocated.

(vii) *Public opinion poll expenses.* Expenses incurred for the taking of a public opinion poll covering only one state shall be allocated to that state. Expenses incurred for the taking of a public opinion poll covering two or more states shall be allocated to those states in proportion to their voting age population.

(c) *Exempted expenditures.*—(1) *National campaign expenditures.*—(i) *Operation costs.* Expenses incurred for administrative, staff, and overhead costs of the national campaign headquarters need not be allocated to any state. Overhead costs shall be defined as in 11 CFR 106.2(b)(2)(iv).

(ii) *National advertising.* Expenses incurred for advertisements on national networks or in publications distributed nationwide need not be allocated to any State.

(iii) *National toll-free telephone services.* Expenses incurred for toll-free telephone service provided by national campaign headquarters for calls from State and regional offices need not be allocated as provided in 11 CFR 106.2(b)(2)(v)(C).

(2) *Media production costs.* Expenses incurred for production of media advertising, whether or not that advertising is used in more than one state, need not be allocated to any state.

(3) *Interstate travel.* Expenses incurred for interstate travel costs, such as travel between state campaigns or between state offices and national headquarters, need not be allocated to any state.

(4) *Compliance and fundraising costs.* An amount equal to 5% of campaign workers' salaries and overhead costs in a particular state may be excluded from allocation to that state as an exempt compliance cost. An additional amount equal to 5% of such salaries and overhead costs in a particular state may be excluded from allocation to that state as exempt fundraising costs but this exemption shall not apply within 28 days of the primary election as specified in 11 CFR 110.8(b)(2). Any amounts excluded for fundraising costs shall be applied against the fundraising expense limitation under 11 CFR 100.8(b)(21). If the candidate wishes to claim a larger compliance or fundraising exemption for any person, the candidate shall establish allocation percentages for each individual working in that state. The candidate shall keep detailed records to support the derivation of each percentage in accordance with 11 CFR 106.2(e).

(d) *Reporting.* All expenditures, whether or not allocated under this section, shall be reported on FEC Form 3Pc.

(e) *Recordkeeping.* All assumptions and supporting calculations for allocations made under this section shall be documented and retained for Commission inspection. For compliance and fundraising deductions that exceed the 5% exemption under 11 CFR 106.2(c)(4), such records shall include written job descriptions and shall indicate which duties are considered compliance or fundraising and the percentage of time each person spends on such activity.

§ 106.3 Allocation of expenses between campaign and non-campaign related travel.

(a) This section applies to allocation for expenses between campaign and non-campaign related travel with respect to campaigns of candidates for Federal office, other than Presidential and Vice Presidential candidates who receive federal funds pursuant to 11 CFR Part 9005 or 9036. (See 11 CFR 9004.7 and 9034.7) All expenditures for campaign-related travel paid for by a candidate from a campaign account or by his or authorized committees or by any other political committee shall be reported.

(b)(1) Travel expenses paid for by a candidate from personal funds, or from a source other than a political committee, shall constitute reportable expenditures if the travel is campaign-related.

(2) Where a candidate's trip involves both campaign-related and non-campaign-related stops, the expenditures allocable for campaign purposes are reportable, and are calculated on the actual cost-per-mile of the means of transportation actually used, starting at the point of origin of the trip, via every campaign-related stop and ending at the point of origin.

(3) Where a candidate conducts any campaign-related activity in a stop, the stop is a campaign-related stop and travel expenditures made are reportable. Campaign-related activity shall not include any incidental contacts.

(c)(1) Where an individual, other than a candidate, conducts campaign-related activities on a trip, the portion of the trip attributed to each candidate shall be allocated on a reasonable basis.

(2) Travel expenses of a candidate's spouse and family are reportable as expenditures only if the spouse or family members conduct campaign-related activities.

(d) Costs incurred by a candidate for the United States Senate or House of Representatives for travel between Washington, D.C., and the State or district in which he or she is a candidate need not be reported herein unless the costs are paid by a candidate's authorized committee(s), or by any other political committee(s).

(e) Notwithstanding paragraphs (b) and (c) of this section, the reportable expenditure for a candidate who uses government conveyance or accommodations for travel which is campaign-related is the rate for comparable commercial conveyance or accommodation. In the case of a candidate authorized by law or required by national security to be accompanied by staff and equipment, the allocable expenditures are the costs of facilities sufficient to accommodate the party, less authorized or required personnel and equipment. If such a trip includes both campaign and non-campaign stops, equivalent costs are calculated in accordance with paragraphs (b) and (c) of this section.

(Sec. 310(8), Pub. L. 92–225, added by sec. 208, Pub. L. 93–443, 88 Stat. 1279, and amended by secs. 105 and 107(a)(1), Pub. L. 94–283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 315(a)(10), Pub. L. 92–225, 86 Stat. 16, amended by secs. 208(a) and (c)(10), and 209(a)(1) and (b)(1), Pub. L. 93–443, 88 Stat. 1279, 1287, and sec. 105, Pub. L. 94–283, 90 Stat. 481 (2 U.S.C. 438(a)(10)))

2. It is proposed to amend 11 CFR by revising Subchapter G, 11 CFR Parts 9031 through 9038, and adding new Part 9039 as follows:

SUBCHAPTER G—PRESIDENTIAL ELECTION CAMPAIGN FUND, PRESIDENTIAL PRIMARY MATCHING FUND

Part
9031 Scope.
9032 Definitions.
9033 Eligibility.
9034 Entitlements.
9035 Expenditure limitations.
9036 Review of submission and certification of payments by Commission.
9037 Payments.
9038 Examinations and audits.
9039 Review and investigation authority.

PART 9031—SCOPE

§ 9031.1 Scope.

The restrictions, liabilities and obligations imposed by this subchapter are in addition to those imposed by sections 431–455 of Title 2 and regulations prescribed thereunder. Unless expressly stated to the contrary, this subchapter does not affect the restrictions, obligations and liabilities imposed by sections 431–455 of Title 2 and regulations prescribed thereunder.

(Sec. 310(8), Pub. L. 92–225, added by sec. 208, Pub. L. 93–443, 88 Stat. 1297, and amended by secs. 105 and 107(a)(1), Pub. L. 94–283, 90 Stat. 481 (2 U.S.C. 437d(a)(8)), and sec. 408(c), Pub. L. 93–443, 88 Stat. 1297 (26 U.S.C. 9039(b)))

PART 9032—DEFINITIONS

Sec.
9032.1 Authorized committee.
9032.2 Candidate.
9032.3 Commission.
9032.4 Contribution.
9032.5 Matching payment account.
9032.6 Matching payment period.
9032.7 Primary election.
9032.8 Political committee.
9032.9 Qualified campaign expense.

Authority: Sec. 408(c), Pub. L. 93–443, 88 Stat. 1297, as amended by sec. 115(c)(2), Pub. L. 94–283, 90 Stat. 495, 500 (26 U.S.C. 9032).

§ 9032.1 Authorized committee.

(a) Notwithstanding the definition at 11 CFR 100.5, "authorized committee" means with respect to candidates (as defined at 11 CFR 9032.2) seeking the nomination of a political party for the office of President, any political committee that is authorized by a candidate to solicit or receive contributions or to make expenditures on behalf of the candidate. The term "authorized committee" includes the candidate's principal campaign committee designated in accordance with 11 CFR 102.12, any political committee authorized in writing by the candidate in accordance with 11 CFR 102.13, and any political committee not disavowed by the candidate pursuant to 11 CFR 100.3(a)(3).

(b) Any withdrawal of an authorization shall be in writing and shall be addressed and filed in the same manner provided for at 11 CFR 102.12 or 102.13.

(c) For the purposes of this subchapter, references to the "candidate" and his or her responsibilities under this subchapter shall also be deemed to refer to the candidate's authorized committee(s).

(d) An expenditure by an authorized committee on behalf of the candidate who authorized the committee cannot qualify as an independent expenditure.

(e) A delegate committee as defined in 11 CFR 100.5(e)(5), is not an authorized committee of a candidate unless it also meets the requirements of subsection (a) of this section. Expenditures by delegate committees on behalf of a candidate may count against that candidate's expenditure limitation under the circumstances set forth in 11 CFR 110.14.

§ 9032.2 Candidate.

"Candidate" means an individual who seeks nomination for election to the office of President of the United States. An individual is considered to seek nomination for election if he or she—

(a) Takes the action necessary under the law of a State to qualify for a caucus, convention, primary election or run off election;

(b) Receives contributions or incurs qualified campaign expenses;

(c) Gives consent to any other person to receive contributions or to incur qualified campaign expenses on his or her behalf; or

(d) Receives written notification from the Commission that any other person is receiving contributions or making expenditures on the individual's behalf and fails to disavow that activity by letter to the Commission within 30 days of notification.

§ 9032.3 Commission.

"Commission" means the Federal Election Commission, 1325 K Street, Northwest, Washington, D.C. 20463.

§ 9032.4 Contribution.

For purposes of this Chapter, "contribution" has the same meaning given the term under 2 U.S.C. 431(e) and 11 CFR 100.7, except as provided at 11 CFR 9034.4(b)(4).

§ 9032.5 Matching payment account.

"Matching payment account" means the Presidential Primary Matching Payment Account established by the Secretary of the Treasury under 26 U.S.C. 9037(a).

§ 9032.6 Matching payment period.

"Matching payment period" means the period beginning January 1 of the calendar year in which a Presidential general election is held and may not exceed one of the following dates:

(a) For a candidate seeking the nomination of a party which nominates its Presidential candidate at a national convention, the date on which the party nominates its candidate.

(b) For a candidate seeking the nomination of a party which does not make its nomination at a national convention, the earlier of—

(1) The date the party nominates its Presidential candidate, or

(2) The last day of the last national convention held by a major party in the calendar year.

§ 9032.7 Primary election.

"Primary election" means an election held by a political party, including a runoff election, or a nominating convention or a caucus—

(a) For the selection of delegates to a national nominating convention of a political party;

(b) For the expression of a preference for the nomination of Presidential candidates;

(c) For the purposes stated in both paragraphs (a) and (b) of this section; or

(d) To nominate a Presidential candidate.

§ 9032.8 Political committee.

"Political committee" means any committee, club, association, organization or other group of persons (whether or not incorporated) which accepts contributions or incurs qualified campaign expenses for the purposes of influencing, or attempting to influence, the nomination of any individual for election to the office of President of the United States.

§ 9032.9 Qualified campaign expense.

(a) "Qualified campaign expense" means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value—

(1) Incurred by or on behalf of a candidate or his or her authorized committees from the date the individual becomes a candidate through the last day of the candidate's eligibility as determined under 11 CFR 9033.5;

(2) Made in connection with his or her campaign for nomination; and

(3) Neither the incurrence nor payment of which constitutes a violation of any law of the United States or of any law of any State in which the expense is incurred or paid, or of any regulation prescribed under such law of the United

States or of any State, except that any State law which has been preempted by the Federal Election Campaign Act of 1971, as amended, shall not be considered a State law for purpose of this subchapter.

(b) An expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by—

(1) An authorized committee or any other agent of the candidate for purposes of making an expenditure;

(2) Any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate to make the expenditure; or

(3) A committee which has been requested by the candidate, by an authorized committee of the candidate, or by an agent of the candidate to make the expenditure, even though such committee is not authorized in writing.

(c) Expenditures incurred either before the date an individual becomes a candidate or after the last day of a candidate's eligibility shall be considered qualified campaign expenses if they meet the provisions of 11 CFR 9034.4(a). Expenditures described under 11 CFR 9034.4(b) shall not be considered qualified campaign expenses.

PART 9033—ELIGIBILITY

Sec.

9033.1 Candidate and committee agreements.
9033.2 Candidate and committee certifications; threshold submission.
9033.3 Expenditure limitation certification.
9033.4 Matching payment threshold requirements.
9033.5 Determination of ineligibility date.
9033.6 Determination of inactive candidacy.
9033.7 Determination of active candidacy.
9033.8 Reestablishment of eligibilty.
9033.9 Failure to comply with disclosure requirements or expenditure limitations.
9033.10 Procedures for initial and final determinations.
9033.11 Documentation of disbursements.

Authority: Sec. 408(c), Pub. L. 93–443, 88 Stat. 1297, as amended by sec. 305(c) and 306(b)(2), Pub. L. 94–283, 90 Stat. 499–500 (26 U.S.C. 9033).

§ 9033.1 Candidate and committee agreements.

(a) *General.* (1) A candidate seeking to become eligible to receive Presidential primary matching fund payments shall agree in a letter signed by the candidate to the Commission that the candidate and the candidate's authorized committee(s) shall comply with the conditions set forth in paragraph (b) of this section. The candidate may submit the letter containing the agreements required by this section at any time after January 1 of the year immediately preceding the Presidential election year.

(2) The Commission shall not consider a candidate's threshold submission until the candidate has submitted a candidate agreement that meets the requirements of this section

(b) *Conditions.* The candidate shall agree that:

(1) The candidate has the burden of proving that disbursements by the candidate or any authorized committee(s) or agents thereof are qualified campaign expenses as defined at 11 CFR 9032.9.

(2) The candidate and the candidate's authorized committee(s) shall comply with the documentation requirements set forth in 11 CFR 9033.11.

(3) The candidate and the candidate's authorized committee(s) shall provide an explanation, in addition to complying with the documentation requirements, of the connection between any disbursements made by the candidate or authorized committee(s) of the candidate and the campaign if requested by the Commission.

(4) The candidate and the candidate's authorized committee(s) shall keep and furnish to the Commission all documentation for matching fund submissions, any books, records (including bank records for all accounts) and supporting documentation and any other information that the Commission may request.

(5) The candidate and the candidate's authorized committee(s) shall keep and furnish to the Commission all documentation relating to disbursements and receipts including any books, records (including bank records for all accounts), all documentation required by this section including those required to be maintained under 11 CFR 9033.11, and any other information that the Commission may request.

(6) The candidate and the candidate's authorized committee(s) shall permit an audit and examination pursuant to 11 CFR Part 9038 of all receipts and disbursements including those made by the candidate, all authorized committee(s) and any agent or person authorized to make expenditures on behalf of the candidate or committee(s). The candidate and authorized committee(s) shall facilitate the audit by making available in one central location, office space, records and such personnel as are necessary to conduct the audit and examination, and shall pay any amounts required to be repaid under 11 CFR parts 9038 and 9039.

(7) The candidate and the candidate's authorized committee(s) shall submit the name and mailing address of the person who is entitled to receive matching fund payments on behalf of the candidate and the name and address of the national or state bank designated by the candidate as a campaign depository as required by 11 CFR Part 103 and 11 CFR 9037.3.

(8) The candidate and the candidate's authorized committee(s) shall prepare matching fund submissions in accordance with the Federal Election Commission's Guideline for Presentation in Good Order.

(9) The candidate and the candidate's authorized committee(s) shall comply with the applicable requirements of 2 U.S.C. 431 *et seq.;* 26 U.S.C. 9031 *et seq.* and the Commission's regulations at 11 CFR Parts 100 through 115 and 9031 through 9039.

(10) The candidate and the candidate's authorized committee(s) shall pay any civil penalties included in a conciliation agreement imposed under 2 U.S.C. 437g against the candidate, any authorized committee of the candidate or any agent thereof.

§ 9033.2 Candidate and committee certifications; threshold submission.

(a) *General.* (1) A candidate seeking to become eligible to receive Presidential primary matching fund payments shall make the certifications set forth in subsection (b) to the Commission in a written statement signed by the candidate. The candidate may submit the letter containing the required certifications at any time after January 1 of the year immediately preceding the Presidential election year.

(2) The Commission shall not consider a candidate's threshold submission until the candidate has submitted candidate certifications that meet the requirements of this section.

(b) *Certifications.* (1) The candidate shall certify that he or she is seeking nomination by a political party to the Office of President in more than one State. For purposes of this section, in order for a candidate to be deemed to be seeking nomination by a political party to the office of President, the party whose nomination the candidate seeks must have a procedure for holding a primary election, as defined in 11 CFR 9032.7, for nomination to that office. For purposes of this section, the term "political party" means an association, committee or organization which nominates an individual for election to the office of President. The fact that an association, committee or organization qualifies as a political pary under this section does not affect the party's status as a national political party for purposes of 2 U.S.C. 441a(a)(1)(B) and 441a(A)(2)(B).

(2) The candidate and the candidate's authorized committee(s) shall certify that they have not incurred and will not incur expenditures in connection with the candidate's campaign for nomination, which expenditures are in excess of the limitations under 11 CFR Part 9035.

(3) The candidate and the candidate's authorized committee(s) shall certify that they have received matchable contributions in excess of $5,000 in each of twenty states from individuals who are residents in that state and which with respect to each individual do not exceed $250. For purposes of this subsection, contributions of an individual who maintains residences in more than one state may only be counted toward the $5,000 threshold for the state from which the earliest contribution was made by that contributor.

(c) *Threshold Submission.* To become eligible to receive matching payments, the candidate shall submit documentation of the contributions described in 11 CFR 9033.2(b)(3) to the Commission for review. The submission shall follow the format and requirements of 11 CFR 9036.1.

§ 9033.3 Expenditure limitation certification.

(a) If the Commission makes an initial determination that a candidate or the candidate's authorized committee(s) have knowingly and substantially exceeded the expenditure limitations at 11 CFR Part 9035 prior to that candidate's application for certification, the Commission may make an initial determination that the candidate is ineligible to receive matching funds.

(b) The Commission shall notify the candidate of its initial determination, in accordance with the procedures outlined in 11 CFR 9033.10(b). The candidate may submit, within 20 calendar days of the Commission's notice, written legal or factual materials, in accordance with 11 CFR 9033.10(b), demonstrating that he or she has not knowingly and substantially exceeded the expenditure limitations at 11 CFR Part 9035.

(c) A final determination of the candidate's ineligibility by the Commission shall be made in accordance with the procedures outlined in 11 CFR 9033.10(c).

(d) A candidate who receives a final determination of ineligibility under 11 CFR 9033.3(d) shall be ineligible to receive matching fund payments under 11 CFR 9034.1.

§ 9033.4 Matching payment threshold requirements.

The Commission shall, as soon as practicable and, during the Presidential election year, generally within 15 business days, examine the submission made under 11 CFR 9033.1 and 9033.2 and either—

(a) Make a determination that the candidate has satisfied the minimum contribution threshold requirement under 11 CFR 9033.2(c); or

(b) Make an initial determination that the candidate has failed to satisfy the matching payment threshold requirements. The Commission shall notify the candidate of its initial determination in accordance with the procedures outlined in 11 CFR 9033.10(b). The candidate may, within 30 calendar days of receipt of the Commission's notice, satisfy the threshold requirements or submit in accordance with 11 CFR 9033.10(b) written legal or factual materials to demonstrate that he or she has satisfied those requirements. A final determination by the Commission that the candidate has failed to satify threshold requirements shall be made in accordance with the procedures outlined in 11 CFR 9033.10(c).

§ 9033.5 Determination of ineligibility date.

After the candidate's date of ineligibility, he or she shall only receive matching payments to the extent that he or she has net outstanding campaign obligations as defined in 11 CFR 9034.5. The candidate's date of ineligibility shall be whichever date by operation of 11 CFR 9033.5(a), (b) or (c) occurs first.

(a) *Inactive candidate.* The ineligibility date shall be the day on which an individual ceases to be a candidate because he or she is not actively conducting campaigns in more than one State in connection with seeking the Presidential nomination. This date shall be the earlier of—

(1) The date the candidate publicly announces that he or she will not be actively conducting campaigns in more than one State; or

(2) The date the candidate notifies the Commission by letter that he or she is not actively conducting campaigns in more than one State; or

(3) The date which the Commission determines under 11 CFR 9033.6 to be the date that the candidate is not actively seeking election in more than one State.

(b) *Insufficient votes.* The ineligibility date shall be the 30th day following the date of the second consecutive primary election in which such individual receives less than 10 percent of the number of popular votes cast for all candidates of the same party for the same office in that primary election, if the candidate permitted or authorized his or her name to appear on the ballot, unless the candidate certifies to the Commission at least 25 business days prior to the primary that he or she will not be an active candidate in the primary involved.

(1) The Commission may refuse to accept the candidate's certification if it determines under 11 CFR 9033.7 that the candidate is an active candidate in the primary involved.

(2) For purposes of this paragraph, if the candidate is running in two primary elections in different States on the same date, the highest percentage of votes a candidate receives in any one State will govern. Separate primary elections held in more than one State on the same date are not deemed to be consecutive primaries. If two primary elections are held on the same date in the same State (e.g., a primary to select delegates to a national nominating convention and a primary for the expression of preference for the nomination of candidates for election to the office of President), the highest percentage of votes a candidate receives in either election will govern.

(c) *End of matching payment period.* The ineligibility date shall be the last day of the matching payment period for the candidate as specified in 11 CFR 9032.6.

(d) *Re-establishment of eligiblity.* If a candidate is determined to be ineligible under 11 CFR 9033.5(a) or (b), he or she may re-establish eligibility to receive matching funds under 11 CFR 9033.8.

§ 9033.6 Determination of inactive candidacy.

(a) *In General.* The Commission may, on the basis of the factors listed in 11 CFR 9033.6(b) below, make a determination that a candidate is no longer actively seeking nomination for election in more than one State at any time after March 1 but before July 1 of the Presidential election year. Upon a final determination by the Commission that a candidate is inactive, that candidate will become ineligible as provided in 11 CFR 9033.5.

(b) *Factors considered.* In making its determination of inactive candidacy, the Commission shall consider, but is not limited to considering, the following factors:

(1) The frequency and type of public appearances, speeches, and advertisements;

(2) Campaign activity with respect to soliciting contributions or making expenditures for campaign purposes;

(3) Continued employment of campaign personnel or the use of volunteers;

(4) The release of committed delegates;

(5) The candidate urges his or her delegates to support another candidate while not actually releasing committed delegates; and

(6) The candidate urges supporters to support another candidate.

(c) *Initial determination.* The Commission shall notify the candidate of its initial determination in accordance with the procedures outlined in 11 CFR 9033.10(b) and shall advise the candidate of the date on which active campaigning in more than one State ceased. The candidate may, within 15 business days of receipt of the Commission's notice, submit in accordance with 11 CFR 9033.10(b) written legal or factual materials to demonstrate that he or she is actively campaigning in more than one State.

(d) *Final determination.* A final determination of inactive candidacy shall be made by the Commission in accordance with the procedures outlined in 11 CFR 9033.10(c).

§ 9033.7 Determination of active candidacy

(a) Where a candidate certifies to the Commission under 11 CFR 9033.5(b) that he or she will not be an active candidate in an upcoming primary, the Commission may on the basis of factors listed in 11 CFR 9033.6(b) make an initial determination that the candidate is an active candidate in the primary involved.

(b) The Commission shall notify the candidate of its initial determination within 10 business days of receiving the candidate's certification under 11 CFR 9033.5(b). The Commission's initial determination shall be made in accordance with the procedures outlined in 11 CFR 9033.10(b). Within 10 business days of receipt of the Commission's notice the candidate may submit, in accordance with 11 CFR 9033.10(b), written legal or factual materials to demonstrate that he or she is not an active candidate in the primary involved.

(c) A final determination by the Commission that the candidate is active shall be made in accordance with the procedures outlined in 11 CFR 9033.10(c).

§ 9033.8 Reestablishment of eligibility.

(a) *Candidates Found to be Inactive.* A candidate who has become ineligible under 11 CFR 9033.5(a) on the basis that he or she is not actively campaigning in more than one state may reestablish eligibility for matching payments by submitting to the Commission evidence of active campaigning in more than one State. In determining whether the candidate has reestablished eligibility, the Commission will consider, but is not limited to considering, the factors listed in 11 CFR 9033.6(b). The day the Commission determines to be the day the candidate becomes active again will be the reestablishment of eligibility date.

(b) *Candidates Receiving Insufficient Votes.* A candidate determined to be ineligible under 11 CFR 9033.5(b) by failing to obtain the required percentage of votes in two consecutive primaries may have his or her eligibility reestablished if the candidate receives at least 20 percent of the total number of votes cast for candidates of the same party for the same office in a primary election held subsequent to the date of the election which rendered the candidate ineligible.

(c) The Commission shall make its determination under paragraphs (a) and (b) of this section without requiring the individual to reestablish eligibility under 11 CFR 9033.1 and 2. A candidate whose eligibility is reestablished under this section may submit, for matching payment, contributions received during ineligibility.

§ 9033.9 Failure to comply with disclosure requirements or expenditure limitations.

(a) If the Commission has reason to believe that a candidate or his or her authorized committee(s) has knowingly and substantially failed to comply with the disclosure requirements of 2 U.S.C. 434 and 11 CFR Part 104, or that a candidate has knowingly and substantially exceeded the expenditure limitations at 11 CFR Part 9035, the Commission may make an initial determination to suspend payments to that candidate.

(b) The Commission shall notify the Candidate of its intitial determination in accordance with the procedures outlined in 11 CFR 9033.10(b). The candidate shall be given an opportuntiy within 20 days of the Commission's notice to comply with the above cited provisions or to submit in accordance with 11 CFR 9033.10(b) written legal or factual materials to demonstrate that he or she is not in violation of those provisions.

(c) Suspension of payments to a candidate will occur upon a final determination by the Commission to suspend payments. Such final determination shall be made in accordance with the procedures outlined in 11 CFR 9033.10(c).

(d) (1) A candidate whose payments have been suspended for failure to comply with reporting requirements may become entitled to receive payments if he or she subsequently files the required reports and pays or agrees to pay any civil or criminal penalties resulting from failure to comply.

(2) A candidate whose payments are suspended for exceeding the expenditure limitations shall not be entitled to receive further matching payments under 11 CFR 9034.1.

§ 9033.10 Procedures for initial and final determinations.

(a) *General.* The Commission shall follow the procedures set forth in this section when making an initial or final determination that a candidate may not receive matching funds for any of the following reasons. A determination by the Commission under this section may be independent of any Commission decision to institute an enforcement proceeding under 2 U.S.C. 437g.

(1) The candidate has exceeded the expenditure limitations of 11 CFR Part 9035 prior to the candidate's application for certification, as provided in 11 CFR 9033.3;

(2) The candidate has failed to satisfy the matching payment threshold requirements, as provided in 11 CFR 9033.4;

(3) The candidate is no longer actively seeking nomination in more than one state, as provided in 11 CFR 9033.6;

(4) The candidate is an active candidate in an upcoming primary despite the candidate's assertion to the contrary, as provided in 11 CFR 9033.7; or

(5) The Commission has reason to believe that the candidate has knowingly and substantially failed to comply with the disclosure requirements or exceeded the expenditure limits, as provided in 11 CFR 9033.9.

(b) *Initial determination.* If the Commission makes an initial determination that a candidate may not receive matching funds for one or more of the reasons indicated in paragraph (a) of this section, the Commission shall notify the candidate of its initial determination. The notification shall give the legal and factual reasons for the determination and advise the candidate of the evidence on which the Commission's initial determination is based. The candidate will be given an opportunity to comply with the requirements at issue or to submit, within the time provided by the relevant section as referred to in 11 CFR 9033.10(a), written legal or factual materials to demonstrate that the candidate has satisfied those requirements. Such materials may be

submitted by counsel if the candidate so desires.

(c) *Final determination.* The Commission will consider any written legal or factual materials submitted by the candidate before making its final determination. A final determination that the candidate has failed to satisfy the requirements at issue shall be accompanied by a written statement of reasons for the Commission's action. This statement shall explain the legal and factual reasons underlying the Commission's determination and shall summarize the results of any investigation upon which the detemination is based.

(d) *Effect on other determinations.* If the Commission makes an initial determination that a candidate may not receive matching funds under paragraph (b) of this section, but determines to take no further action under this section, the Commission may use the legal and factual bases on which the initial determination was based in any future repayment determination under 11 CFR Part 9038 or 9039.

§ 9033.11 Documentation of disbursements.

(a) *Burden of proof.* Each candidate shall have the burden of proving that disbursements made by the candidate or his or her authorized committee(s) or persons authorized to make expenditures on behalf of the candidate or committee(s) are qualified campaign expenses as defined in 11 CFR 9032.9. The candidate and his or her authorized committee(s) shall obtain and furnish to the Commission on request any evidence regarding qualified campaign expenses made by the candidates, his or her authorized committees and agents or persons authorized to make expenditures of behalf of the candidate or committee(s) as provided in paragraph (b) of this section.

(b) *Documentation required.* (1) For disbursements which in a calendar year aggregate in excess of $200 to a payee, the candidate shall present either:

(i) A receipted bill from the payee that states the purpose of the disbursement, or

(ii) If such a receipt is not available, a cancelled check negotiated by the payee, and

(A) One of the following documents generated by the payee. A bill, invoice, or voucher that states the purpose of the disbursement; or

(B) Where the documents specified in paragraph (b)(ii)(A) of this section are not available, a voucher or contemporaneous memorandum from the candidate or the committee that states the purpose of the disbursement; or

(iii) If neither a receipted bill as specified in paragraph (b)(1)(i) of this section nor the supporting documentation specified in paragraph (b)(1)(ii) of this section is available, a cancelled check negotiated by the payee that states the purpose of the disbursement.

(iv) Where the supporting documentation required in 11 CFR 9033.11(b)(1)(i), (ii) or (iii) is not available, the candidate or committee may present a cancelled check and collateral evidence to document the qualified campaign expense. Such collateral evidence may include but is not limited to:

(A) Evidence demonstrating that the expenditure is part of an identifiable program or project which is otherwise sufficiently documented such as a disbursement which is one of a number of documented disbursements relating to a campaign mailing or to the operation of a campaign office;

(B) Evidence that the disbursement is covered by a preestablished written campaign committee policy, such as a per diem policy.

(2) For all other disbursements the candidate shall present:

(i) A record disclosing the identification of the payee, the amount and the date of the disbursement, if made from a petty cash fund; or

(ii) A cancelled check negotiated by the payee that states the identification of the payee, and the amount and date of the disbursement.

(3) For purposes of this section,

(i) "Payee" means the person who provides the goods or services to the candidate or committee in return for the disbursement except for an advance of $500 or less for travel and/or subsistence to an individual who will be the recipient of the goods or services purchased.

(ii) "Purpose" means the identification of the payee, the date and amount of the disbursement, and a description of the goods or services purchased.

(c) *Retention or records.* The candidate shall retain records, with respect to each disbursement and receipt, including bank records, vouchers, worksheets, receipts, bills and accounts, journals, ledgers, fundraising solicitation material, accounting systems documentation, matching fund submissions, and any related materials documenting campaign receipts and disbursements, for a period of three years pursuant to 11 CFR 102.9(c), and shall present these records to the Commission on request.

PART 9034—ENTITLEMENTS

Sec.

9034.1 Candidate entitlements.
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9034.6 Reimbursements for transportation and services made available to media, Secret Service and similar personnel.
9034.7 Allocation of travel expenses.
9034.8 Joint fund raising.

Authority: Sec. 408(c), Pub. L. 93–443, 88 Stat. 1299, as amended by sec. 307(b), Pub. L. 94–283, 90 Stat. 501 (26 U.S.C. 9034).

§ 9034.1 Candidate entitlements.

(a) A candidate who has been notified by the Commission under 11 CFR 9036.1 that he or she has successfully satisfied eligibility and certification requirements is entitled to receive payments in an amount equal to the amount of each matchable campaign contribution received by the candidate, except that a candidate who has become ineligible under 11 CFR 9033.5 may not receive further matching payments regardless of the date of deposit of the underlying contributions if he or she has no net outstanding campaign obligations as defined in 11 CFR 9034.5.

(b) If on the date of ineligibility a candidate has net outstanding campaign obligations as defined under 11 CFR 9034.5, that candidate may continue to receive matching payments for matchable contributions received and deposited on or before December 31 of the Presidential election year provided that on the date of submission there are remaining net outstanding campaign obligations, and the sum of the contributions received on or after the date of ineligibility plus matching funds received on or after the date of ineligibility is less than the candidate's net outstanding campaign obligations. This entitlement will be equal to the lesser of:

(1) The amount of contributions submitted for matching; or

(2) The remaining net outstanding campaign obligations.

(c) A candidate whose eligibility has been reestablished under 11 CFR 9033.8 or who after suspension of payments has met the conditions set forth at 11 CFR 9033.9(d) is entitled to receive payments for matchable contributions for which payments were not received during the ineligibility or suspension period.

(d) The total amount of payments to a candidate under this section shall not exceed 50% of the total expenditure

limitation applicable under 11 CFR Part 9035.

§ 9034.2 Matchable contributions.

(a) Contributions meeting the following requirements will be considered matchable campaign contributions.

(1) The contribution shall be a gift of money made: by an individual; by a written instrument and for the purpose of influencing the result of a primary election.

(2) Only $250 of the aggregate amount contributed by an individual shall be matchable.

(3) Before a contribution may be submitted for matching, it must actually be received by the candidate or any of the candidate's authorized committees and deposited in a designated campaign depository maintained by the candidate's authorized committee.

(4) The written instrument used in making the contribution must be dated, physically received and deposited by the candidate or authorized committee on or after January 1 of the year immediately preceding the calendar year of the Presidential election, but no later than December 31 following the matching payment period.

(b) For purposes of this section, the term written instrument means a check written on a personal, escrow or trust account containing the contributor's personal funds; a money order; or any other negotiable instrument.

(c) The written instrument shall be: Payable on demand; and to the order of, or specifically endorsed without qualification to, the Presidential candidate, or his or her authorized committee. The written instrument shall contain: the full name and signature of the contributor, except in the case of contributions from joint accounts; the amount and date of the contribution; and the mailing address of the contributor.

(1) In cases of a check drawn on a joint checking account, the contributor is considered to be the owner whose signature appears on the check. To be attributed equally to other joint tenants of the account, the check or other accompanying written document shall contain the signature(s) of the joint tenant(s).

(i) In the case of a check for a contribution attributed to more than one person, where it is not apparent from the face of the check that each contributor is a joint tenant of the account, a written statement shall accompany the check stating that the contribution was made from each individual's personal funds in the amount so attributed.

(2) Contributions in the form of checks drawn on an escrow or trust account are matchable contributions, provided that:

(i) The contributor has beneficial ownership of the account; and

(ii) The check is accompanied by a statement, signed by each contributor to whom all or a portion of the contribution is being attributed, together with the check number, amount and date of contribution. This statement shall specify that: The contributor has beneficial ownership of the account; the account represents the personal funds of the contributor; and the giving of the contributions does not violate the conditions of the trust, estate, or escrow agreement.

(3) Contributions in the form of checks written on partnership accounts or accounts of unincorporated associations or businesses are matchable contributions, so long as:

(i) The check is accompanied by a statement, signed by each contributor to whom all or a portion of the contribution is being attributed, together with the check number, amount and date of contribution. This statement shall specify that the contribution is made with the contributor's personal funds and that the account on which the contribution is drawn is not maintained or controlled by an incorporated entity; and

(ii) The aggregate amount of the contributions drawn on a partnership or unincorporated association or business does not exceed $1,000 to any one Presidential candidate seeking nomination.

(4) Contributions in the form of money orders, cashier's checks or other similar negotiable instruments are matchable contributions, provided that:

(i) At the time it is initially submitted for matching, such instrument is signed by the contributor and is accompanied by a statement which specifies that the contribution was made in the form of a money order, cashier's check, or other similar negotiable instrument, with the contributor's personal funds;

(ii) Such statement identifies the date and amount of the contribution made by money order, cashier's check or other similar negotiable instrument and the check or serial number; and

(iii) Such statement is signed by the contributor.

(5) Contributions in the form of the purchase price paid for the admission to any activity that primarily confers private benefits in the form of entertainment to the contributor (i.e., concerts, motion pictures) are matchable to the extent described below:

(i) The matchable contribution shall only include the excess of the amount paid for admission over the fair market value of all benefits available to the purchaser of the ticket, using a good faith reasonable estimate;

(ii) The promotional material and tickets for the event shall clearly and separately identify the fair market value of the admission and the amount of contribution being made to the Presidential candidate, or his or her authorized committee; and

(iii) A copy of a ticket at each admission price and a copy of all promotional material shall accompany the submission of such contributions for matching.

(6) Contributions in the form of a purchase price paid for admission to an activity that is essentially political is fully matchable. An "essentially political" activity is one the principal purpose of which is political speech or discussion, such as the traditional political dinner or reception.

(7) Contributions received from a joint fundraising activity conducted in accordance with 11 CFR 9034.8 are fully matchable.

§ 9034.3 Non-matchable contributions.

A contribution to a candidate other than one which meets the requirements of 11 CFR 9034.2 is not matchable. Contributions which are not matchable include:

(a) In-kind contributions of real or personal property;

(b) A subscription loan, advance, or deposit of money, or anything of value;

(c) A contract, promise, or agreement, whether or not legally enforceable, such as a pledge card or credit card transaction, to make a contribution for any such purposes (but a gift of money by written instrument is not rendered unmatchable solely because the contribution was preceded by a promise or pledge);

(d) Funds from a corporation, labor organization, government contractor, political committee as defined in 11 CFR 100.5 or any group of persons other than those under 11 CFR 9034.2(c)(4);

(e) Contributions which are made or accepted in violation of 2 U.S.C. 441a, 441b, 441c, 441e, 441f, or 441g;

(f) Contributions in the form of a check drawn on the account of a committee, corporation, union or government contractor even though the funds represented personal funds earmarked by a contributing individual to a Presidential candidate;

(g) Contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value, such as a watch;

(h) Contributions in the form of the purchase price paid for or otherwise induced by a chance to participate in a raffle, lottery, or a similar drawing for valuable prices;

(i) Contributions in the form of the purchase price paid for the admission to any activity that primarily confers private benefits in the form of entertainment to the contributor, such as a concert, motion picture, or theatrical performance, in which case the amount of the non-matchable contribution shall include the fair market value of all the benefits available to the purchaser of the ticket, using a good faith reasonable estimate;

(j) Contributions which are made by persons without the necessary donative intent to make a gift or made for any purpose other than to influence the result of a primary election; and

(k) Contributions of currency of the United States or currency of any foreign country.

§ 9034.4 Use of contributions and matching payments.

(a) *Qualified Campaign Expenses.*—(1) *General.* Except as provided in paragraph (b)(3) of this section, all contributions received by an individual from the date he or she becomes a candidate and all matching payments received by the candidate shall be used only to defray qualified campaign expenses or to repay loans or otherwise restore funds (other than contributions which were received and expended to defray qualified campaign expenses), which were used to defray qualified campaign expenses.

(2) *Testing the Waters.* Even though incurred prior to the date an individual becomes a candidate, payments made for the purpose of determining whether an individual should become a candidate, such as those incurred in conducting a poll, shall be considered qualified campaign expenses if the individual subsequently becomes a candidate. See 11 CFR 100.7(b)(1).

(3) *Winding down costs.* The following costs shall be considered qualified campaign expenses if they are incurred within ten months after the candidate's date of ineligibility:

(i) Costs associated with the termination of political activity, such as the costs of complying with the post-election requirements of the Act and other necessary administrative costs associated with winding down the campaign, including office space rental, staff salaries and office supplies; or

(ii) Costs incurred before the candidate's date of ineligibility, for which written arrangement or commitment was made on or before the candidate's date of ineligibility.

(iii) The candidate may request an extension of the winding down period no later than 20 calender days before the end of the winding down period. The request shall be in writing and shall state the reasons for the extension. The Commission shall consider the candidate's efforts to terminate activity, the time period sought and any other good cause reasons offered by the candidate when determining whether to approve or disapprove the request for extension.

(b) *Non-qualified campaign expenses.*—(1) *General.* The following are examples of disbursements that are not qualified campaign expenses.

(2) *Excessive expenditures.* An expenditure which is in excess of any of the limitations under 11 CFR Part 9035 shall not be considered a qualified campaign expense.

(3) *Post-ineligibility expenditures.* Any expenses incurred after a candidate's date of ineligibility, as determined under 11 CFR 9033.5, are not qualified campaign expenses except to the extent permitted under 11 CFR 9034.4(a)(3). Expenses that are not qualified include, but are not limited to, litigation costs.

(4) *Civil or criminal penalties.* Civil or criminal penalties paid pursuant to the Federal Election Campaign Act are not qualified campaign expenses and cannot be defrayed from contributions or matching payments. Any amounts received or expended to pay such penalties shall not be considered contributions or expenditures but all amounts so received shall be subject to the prohibitions of the Act. Amounts received and expended under this section shall be reported in accordance with 11 CFR Part 104.

(c) *Repayments.* Additional funds raised to make repayments under 11 CFR Parts 9038 and 9039 shall not be subject to the contribution limits of the Act but shall be subject to the prohibitions of the Act.

(d) *Transfers to other campaigns.* If a candidate has received matching funds and is simultaneously seeking nomination or election to another Federal office, no transfer of funds between his or her principal campaign committees or authorized committees may be made. See 2 U.S.C. 441a(a)(5)(C) and 11 CFR 110.3(a)(2)(v).

§ 9034.5 Net outstanding campaign obligations.

(a) Within 15 days after the candidate's date of ineligibility, as determined under 11 CFR 9033.5, the candidate shall submit a statement of net outstanding campaign obligations. The candidate's net outstanding campaign obligations under this section equal the difference between paragraphs (a) (1) and (2) of this section:

(1) The total of all outstanding obligations for qualified campaign expenses as of the candidate's date of ineligibility as determined under 11 CFR 9033.5, plus estimated necessary winding down costs as defined under 11 CFR 9034.4(a), less

(2) The total of:

(i) Cash on hand as of the close of business on the last day of eligibility (including all contributions dated on or before that date whether or not submitted for matching);

(ii) The fair market value of capital assets and other assets on hand; and

(iii) Amounts owed to the campaign in the form of credits, refunds of deposits, returns, receivables, or rebates of qualified campaign expenses; or a commercially reasonable amount based on the collectibility of those credits, returns, receivables or rebates.

(b)(1) *Capital Assets.* For purposes of this section, the term "capital asset" means any property which has remaining useful life exceeding 1 year from the last day of the candidate's eligibility and whose value on the last day of the candidate's eligibility exceeds $1000. Property that must be valued as capital assets under this section includes, but is not limited to, office equipment, furniture, vehicles and fixtures acquired for use in the operation of the candidate's campaign, but does not include property defined as "other assets" under paragraph (b)(2) of this section. The value of a capital asset shall be determined by subtracting the amount of depreciation allowed under the Internal Revenue Code from the cost of the asset. The amount of depreciation shall be the same as that claimed on the committee's tax return filed under 26 U.S.C. 527. If the amount claimed is lower than that obtained by either of the above methods, the amount shall be justified by the candidate.

(2) *Other Assets.* The term "other assets" means any property acquired by the campaign for use in raising funds or as collateral for campaign loans, the aggregate value of which exceeds $5,000. The value of "other assets" shall be determined by the fair market value of each item on the candidate's date of ineligibility or on the date the item is acquired if acquired after the date of ineligibility.

(c) Contributions received from joint fundraising activities conducted under 11 CFR 9034.8 may be used to pay a

candidate's oustanding campaign obligations.

(1) Such contributions shall be deemed monies available to pay outstanding campaign obligations as of the date these funds are received by the fundraising representative committee and shall be included in the candidate's statement of net outstanding campaign obligations.

(2) The amount of money deemed available to pay a candidate's net outstanding campaign obligations will equal either—

(i) An amount calculated on the basis of the predetermined allocation formula, as adjusted for 2 U.S.C. 441a limitations; or

(ii) If a candidate receives an amount greater than that calculated under subsection (c)(2)(i), the amount actually received.

(d) The candidate shall submit a revised statement of net outstanding campaign obligations with each submission for matching funds payments filed after the candidate's date of ineligibility. The revised statement shall reflect the status of the campaign as of the close of business on the last business day preceding the date of submission for matching funds. Each change from the last statement of net outstanding campaign obligations shall be indicated and accompanied by a statement explaining the reasons for the change.

(e)(1) If, in reviewing a candidate's statement of net outstanding campaign obligations, the Commission receives information indicating that substantial assets of the candidate's authorized committee(s) have been undervalued or not included in the statement or that the amount of outstanding campaign obligations has been otherwise overstated in relation to campaign assets, the Commission may decide to temporarily suspend further matching payments pending a final determination whether the candidate is entitled to receive all or a portion of the matching funds requested.

(2) In making a determination under paragraph (e)(1) of this section, the Commission shall follow the procedures for initial and final determinations under 11 CFR 9033.10 (b) and (c). The Commission shall notify the candidate of its initial determination within 10 business days after receipt of the candidate's statement of net outstanding campaign obligations. Within 10 business days after receipt of the Commission's notice, the candidate may submit written legal or factual materials to demonstate that he or she has net outstanding campaign obligations that entitle the campaign to further matching payments.

(3) If the candidate demonstrates that the amount of outstanding campaign obligations still exceeds campaign assets, he or she may continue to receive matching payments.

§ 9034.6 Reimbursements for transportation and services made available to media, Secret Service and similar personnel.

(a) If an authorized committee incurs expenses for transortation made available to media, Secret Service or other staff authorized by law or required by national security to travel with a candidate, such expenses shall be qualified campaign expenses. If reimbursement for such expenses is received by a committee, the amount of such reimbursement for each individual shall not exceed that individual's pro rata share of the actual costs of the transportation made available. An individual's pro rata share shall be calculated by dividing the total number of passengers transported into the total cost of the transportation made available.

(b) If an authorized committee incurs expenses for ground services and facilities (e.g. ground transportation, housing, meals, telephone service, typewriters) made available to media, Secret Service, or other staff authorized by law or required by national security to travel with a candidate, such expenses shall be qualified campaign expenses. If reimbursement for such expenses is received by a committee, the amount of such reimbursement for each individual shall not exceed either: the individual's pro rata share of the actual cost of the services and facilities made available; or a reasonable estimate of the individual's pro rata share of the actual cost of the services and facilities made available. If it is determined that reimbursements related to a trip have exceeded by 10% or more the actual cost of the services and facilities made available, such excessive amount shall be deemed income to the committee and shall be repaid to the Secretary. An individual's pro rata share shall be calculated by dividing the total number of individuals to whom such services and facilities are made available into the total cost of such services and facilities.

(c) The total amount paid by an authorized committee for the cost of transportation or for ground services and facilities shall be reported as an expenditure in accordance with 11 CFR 104.3(b)(2)(i). Any reimbursement received by such committee for transportation or ground services and facilities shall be reported in accordance with 11 CFR 104.3(a)(3)(ix).

§ 9034.7 Allocation of travel expenses.

(a) Notwithstanding the provisions of 11 CFR Part 106, expenses for travel relating to the campaign of a candidate seeking nomination for election to the office of President by any individual, including a candidate, shall, pursuant to the provisions of paragraph (b) of this section, be qualified campaign expenses and be reported by the candidate's authorized committee(s) as expenditures.

(b)(1) For a trip which is entirely campaign related, the total cost of the trip shall be a qualified campaign expense and a reportable expenditure.

(2) For a trip which includes campaign related and non-campaign related stops, that portion of the cost of the trip allocable to campaign activity shall be a qualified campaign expense and a reportable expenditure. Such portion shall be determined by calculating what the trip would have cost from the point of origin of the trip to the first campaign related stop and from that stop through each subsequent campaign related stop to the point of origin. If any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign related.

(3) For each trip, an itinerary shall be prepared and such itinerary shall be made available for Commission inspection.

(4) For trips by government conveyance or by charter, a list of all passengers on such trip, along with a designation of which passengers are and which are not campaign related, shall be made available for Commission inspection.

(5) If any individual, including a candidate, uses government conveyance or accommodations paid for by a government entity an amount equal to that portion of the actual cost of the conveyance or accommodations which is allocable to all passengers, including the candidate, travelling for campaign purposes. Such payments to the government entity shall be considered qualified campaign expenses and shall be reported by the committee as expenditures.

(i) If the trip is by government conveyance or charter paid for by a government entity, the actual cost for each passenger shall be determined by dividing the total operating cost for the conveyance or charter by the total number of passengers transported. The amount payable to the government entity shall be calculated in accordance with the formula set forth at 11 CFR

9034.7(b)(2) on the basis of the actual cost per passenger multiplied by the number of passengers travelling for campaign purposes.

(ii) If the trip is by non-charter commercial transportation or accommodations paid for by a government entity, the actual cost shall be calculated in accordance with the formula set forth at 11 CFR 9034.7(b)(2) on the basis of commercial fare.

(iii) In the case of candidates authorized by law or required by national security to be accompanied by staff, such staff shall not be considered to be travelling for campaign purposes unless such staff engages in campaign activity during a trip.

(iv) Travel expenses of a candidate's spouse and family when accompanying the candidate on campaign travel may be treated as qualified campaign expenses and reportable expenditures. If the spouse or family members conduct campaign related activities, their travel expenses shall be qualified campaign expenses and reportable expenditures.

(6) If any individual, including a candidate, incurs expenses for campaign related travel, other than by use of government conveyance or accommodations, an amount equal to that portion of the actual cost of the conveyance or accommodations wich is allocable to all passengers, including the candidate, travelling for campaign purposes shall be a qualified campaign expense and shall be reported by the committee as an expenditure.

(i) If the trip is by charter, the actual cost for each passenger shall be determined by dividing the total operating cost for the charter by the total number of passengers transported. The amount which is a qualified campaign expense and a reportable expenditure shall be calculated in accordance with the formula set forth at 11 CFR 9034.7(b)(2) on the basis of the actual cost per passenger multiplied by the number of passengers travelling for campaign purposes.

(ii) If the trip is by non-charter commercial transportation the actual cost shall be calculated in accordance with the formula set forth at 11 CFR 9034.7(b)(2) on the basis of commercial fare. Such actual cost shall be a qualified campaign expense and a reportable expenditure.

(iii) The provisions of 11 CFR 9034.7(b)(5) (iii) and (iv) apply to calculations under this section.

§ 9034.8 Joint fundraising.

(a) *General.*—(1) *Permissible Participants.* Presidential primary candidates who receive matching funds under this Chapter may engage in joint fundraising with other candidates, political committees or unregistered committees or organizations.

(2) *Use of Funds.* Contributions received as a result of a candidate's participation in a joint fundraising activity under this section may be—

(i) Submitted for matching purposes in accordance with the requirements of 11 CFR 9034.2 and the Federal Election Commission Guideline for Presentation in Good Order;

(ii) Used to pay a candidate's net outstanding campaign obligations as provided in 11 CFR 9034.5; or

(iii) If in excess of a candidate's net outstanding campaign obligations or expenditure limit, used in any manner consistent with 11 CFR 113.2, including repayment of funds under 11 CFR Part 9038.

(b) *Fundraising representatives.*—(1) *Establishment or selection of fundraising representative.* The participants in a joint fundraising effort under this section shall either establish a separate committee or select a participating committee, to act as fundraising representative for all participants. The fundraising representative shall be a reporting political committee.

(2) *Separate fundraising committee as fundraising representative.* A separate fundraising committee established by the participants to act as fundraising representative for all participants shall—

(i) Be established as a reporting political committee under 11 CFR 100.5;

(ii) Collect contributions;

(iii) Pay fundraising costs from gross proceeds and funds advanced by participants; and

(iv) Disburse net proceeds to each participant.

(3) *Participating committee as fundraising representative.* A participant selected to act as fundraising representative for all participants shall—

(i) Be a political committee as defined in 11 CFR 100.5;

(ii) Collect contributions, however, other participants may also collect contributions and then forward them to the fundraising representative as required by 11 CFR 102.8;

(iii) Pay fundraising costs from gross proceeds and funds advanced by participants; and

(iv) Disburse net proceeds to each participant.

(4) *Independent fundraising agent.* The participants may hire a commercial fundraising firm or other agent to assist in conducting the joint fundraising activity. In that case, however, the fundraising representative shall still be responsible for ensuring that the recordkeeping, reporting and documentation requirements set forth in this Chapter are met.

(c) *Joint fundraising procedures.* Any joint fundraising activity under this section shall be conducted in accordance with the following requirements:

(1) *Written agreement.* The participants in a joint fundraising activity shall enter into a written agreement, whether or not all participants are political committees under 11 CFR 100.5. The written agreement shall identify the fundraising representative and shall state a formula for the allocation of fundraising proceeds. The participants shall also use the formula to allocate the expenses incurred for the fundraising activity. The fundraising representative shall retain the written agreement for a period of three years and shall make it available to the Commission on request.

(2) *Advances.* (i) Except as provided in 11 CFR 9034.8(c)(2) (ii) and (iii), the amount of funds advanced by each participant for fundraising costs shall be in proportion to the allocation formula agreed upon under 11 CFR 9034.8(c)(1).

(ii) A participant may advance more than its proportionate share of the fundraising costs, however, the amount advanced which is in excess of the participant's proportionate share shall not exceed the amount that participant could legally contribute to the remaining participants. See 11 CFR 102.12(c)(2) and Part 110.

(3) *Fundraising notice.* In addition to any notice required under 11 CFR 110.11, a joint fundraising notice shall be included with every solicitation for contributions.

(i) This notice shall include the following information:

(A) The names of all committees participating in the joint fundraising activity whether or not such committees are political committees under 11 CFR 100.5; and

(B) The allocation formula to be used for distributing joint fundraising proceeds; and

(C) A statement informing contributors that, notwithstanding the stated allocation formula, they may designate their contributions for a particular participant or participants; and

(D) A statement informing contributors that the allocation formula may change if a contributor makes a contribution which would exceed the amount that contributor may give to any participant.

(ii) If one or more participants engage in the joint fundraising activity solely to satisfy outstanding debts, the notice shall also contain a statement informing contributors that the allocation formula may change if a participant receives sufficient funds to pay its outstanding debts.

(4) *Separate depository account.* (i) the participants shall establish a separate depository account to be used solely for the receipt and disbursement of the joint fundraising proceeds. All contributions deposited into the separate depository account must be permissible under the Act. Each political committee shall amend its Statement of Organization to reflect the account as an additional depository.

(ii) The fundraising representative shall deposit all joint fundraising proceeds in the separate depository account within ten days of receipt as required by 11 CFR 103.3. The fundraising representative may delay distribution of the fundraising proceeds to the participants until all contributions are received and all expenses are paid.

(iii) For contribution reporting and limitation purposes, the date of receipt of a contribution by a participating political committee is the date that the contribution is received by the fundraising representative. The fundraising representative shall report contributions in the reporting period in which they are received. Participating political committees shall report joint fundraising proceeds in accordance with 11 CFR 9034.8(c)(8) when such funds are received from the fundraising representative.

(5) *Recordkeeping requirements.* (i) The fundraising representative shall screen all contributions received to insure that the prohibitions and limitations of 11 CFR Parts 110 and 114 are observed. Participating political committees shall make their contributor records available to the fundraising representative to enable the fundraising representative to carry out its duty to screen contributions.

(ii) The fundraising representative shall collect and retain contributor information with regard to gross proceeds as required under 11 CFR 102.8 and shall also forward such information to participating political committees.

(iii) The fundraising representative shall retain the records required under 11 CFR 9033.11 regarding fundraising disbursements for a period of three years. Commercial fundraising firms or agents shall forward such information to the fundraising representative.

(6) *Contribution limitations.* Except to the extent that the contributor has previously contributed to any of the participants, a contributor may make a contribution to the joint fundraising effort which contribution represents that total amount that the contributor could contribute to all the participants under the applicable limits of 11 CFR 110.1 and 110.2.

(7) *Allocation of gross proceeds.* (i) The fundraising representative shall allocate proceeds according to the formula stated in the fundraising agreement. Funds may not be distributed or reallocated so as to maximize the matchability of the contributions.

(ii) If distribution according to the allocation formula extinguishes the debts of one or more participants or if distribution under the formula results in a violation of the contribution limits of 11 CFR 110.1(a), the fundraising representative may reallocate the surplus funds. Candidates seeking to extinguish outstanding debts shall not reallocate in reliance on the receipt of matching funds to pay the remainder of their debts; rather, all funds to which a participant is entitled under the allocation formula shall be deemed funds available to pay the candidate's outstanding campaign obligations as provided in 11 CFR 9034.5(d).

(iii) Reallocation shall be based upon the remaining participants' proportionate shares under the allocation formula. If reallocation results in a violation of a contributor's limit under 11 CFR 110.1, the fundraising representative shall return to the contributor the amount of the contribution that exceeds the limit.

(iv) Designated contributions which exceed the contributor's limit to the designated participant under 11 CFR Part 110 may not be reallocated by the fundraising representative without the written permission of the contributor.

(8) *Allocation of expenses and distribution of net proceeds.* (i) If participating committees are not affiliated as defined in 11 CFR 110.3 prior to the joint fundraising activity and are not committees of the same political party:

(A) After gross contributions are allocated among the participants under 11 CFR 9034.8(c)(7), the fundraising representative shall determine each participant's share of expenses based on the percentage of the total receipts each participant had been allocated. To determine each participant's net proceeds, the fundraising representative shall subtract the participant's share of expenses from the amount that participant has been allocated from gross proceeds.

(B) A participant may only pay expenses on behalf of another participant subject to the contribution limits of 11 CFR Part 110.

(ii) If participating committees are affiliated as defined in 11 CFR 110.3 prior to the joint fundraising activity or if participants are party committees of the same political party, expenses need not be allocated among those participants. Payment of such expenses by an unregistered committee or organization on behalf of an affiliated political committee may cause the unregistered organization to become a political committee.

(iii) Payment of expenses may be made from gross proceeds by the fundraising representative.

(9) *Reporting of receipts and disbursements.*—(i) *Reporting receipts.* (A) The fundraising representative shall report all funds received in the reporting period in which they are received. Each Schedule A filed by the fundraising representative under this section shall clearly indicate that the contributions reported on that schedule represent joint fundraising proceeds.

(B) After distribution of net proceeds, each participating political committee shall report its share of net proceeds received as a transfer-in from the fundraising representative. Each participating political committee shall also file a memo Schedule A itemizing its share of gross receipts as contributions from original contributors to the extent required under 11 CFR 104.3(a).

(ii) *Reporting disbursements.* The fundraising representative shall report all disbursements in the reporting period in which they are made.

PART 9035—EXPENDITURE LIMITATIONS

Sec.

9035.1 Campaign expenditure limitation.
9035.2 Limitation on expenditures from personal or family funds.

Authority: Sec 408(c), Pub. L. 93–443, 88 Stat. 1300, as amended by sec. 305(a), 307(c), Pub. L. 94–283, 90 Stat. 494, 501 (26 U.S.C. 9035).

§ 9035.1 Campaign expenditure limitation.

(a) No candidate or his or her authorized committee(s) shall knowingly incur expenditures in connection with the candidate's campaign for nomination, which expenditures, in the aggregate, exceed $10,000,000 (as adjusted under 2 U.S.C. 441a(c)), except that the aggregate expenditures by a candidate in any one State shall not exceed the greater of: 16 cents (as adjusted under 2 U.S.C. 441a(c)) multiplied by the voting age population of the State (as certified under 2 U.S.C.

441a(e)); or $200,000 (as adjusted under 2 U.S.C. 441a(c)).

(b) The expenditure limitations of 11 CFR 9035.1 shall not apply to a candidate who does not receive matching funds at any time during the matching payment period.

§ 9035.2 Limitation on expenditures from personal or family funds.

(a) No candidate who has accepted matching funds shall knowingly make expenditures from his or her personal funds, or funds of his or her immediate family, in connection with his or her campaign for nomination for election to the office of President which exceed $50,000, in the aggregate. This section shall not operate to prohibit any member of the candidate's immediate family from contributing his or her personal funds to the candidate, subject to the limitations of 11 CFR Part 110.

(b) For purposes of this section, the term "immediate family" means a candidate, spouse, and any child, parent grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

(c) For purposes of this section, "personal funds" has the same meaning as specified in 11 CFR 110.10.

PART 9036—REVIEW OF SUBMISSION AND CERTIFICATION OF PAYMENTS BY COMMISSION

Sec.

9036.1 Threshold submission.
9036.2 Additional submissions for matching fund payments.
9036.3 Insufficient documentation.
9036.4 Commission review of submissions.
9036.5 Resubmissions.
9036.6 Continuation of certification.

Authority: Sec. 408(c), Pub. L. 93-443, 88 Stat. 1300 (26 U.S.C. 9036).

§ 9036.1 Threshold submission.

(a) *Time for submission of threshold submission.* At any time after January 1 of the year immediately preceding the Presidential election year, the candidate may submit a threshold submission for matching fund payments in accordance with the format for such submissions set forth in paragraph (b) of this section. The candidate may submit the threshold submission simultaneously with or subsequent to his or her submission of the candidate agreement and certifications required by 11 CFR 9033.1 and 9033.2.

(b) *Format for threshold submission.* (1) For each state in which the candidate certifies that he or she has met the requirements of the certifications in 11 CFR 9033.2(b), the candidate shall submit an alphabetical list of contributors showing:

(i) Each contributor's full name and residential address;

(ii) The occupation and name of employer for individuals whose aggregate contributions exceed $200 per calendar year;

(iii) The date of deposit of each contribution into the designated campaign depository;

(iv) The full dollar amount of each contribution submitted for matching purposes;

(v) The matchable portion of each contribution submitted for matching purposes;

(vi) The total amount of all matchable contributions submitted for matching purposes;

(vii) An indication of which contributions were received as a result of entertainment activity.

(2) The candidate shall submit a full-size photocopy of each check or written instrument and of supporting documentation in accordance with 11 CFR 9034.2 for each contribution that the candidate submits to establish eligibility for matching funds. For purposes of the threshold submission, the photocopies shall be segregated alphabetically by contributor within each State, and shall be accompanied by and referenced to copies of the relevant deposit slip.

(3) The candidate shall submit bank documentation, such as bank-validated deposit slips, which indicate that the contributions submitted were deposited into a designated campaign depository.

(4) For each State in which the candidate certifies that he or she has met the requirements to establish eligibility, the candidate shall submit a listing, alphabetically by contributor, of all checks returned by the bank to date as unpaid (e.g. stop payments, non-sufficient funds) regardless of whether the contribution was submitted for matching. This listing shall be accompanied by a full-size photocopy of each unpaid check, and copies of the associated debt memo and bank statement.

(5) Contributions that are not submitted in compliance with this subsection shall not count toward the threshold amount.

(6) The candidate shall submit all contributions in accordance with the Federal Election Commission's Guideline for Presentation in Good Order.

(c) *Threshold certification by commission.* (1) After the Commission has determined under 11 CFR 9033.4 that the candidate has satisfied the eligibility and certification requirements of 11 CFR 9033.1 and 9033.2, the Commission shall notify the candidate in writing that the candidate is eligible to receive primary matching fund payments as provided in 11 CFR Part 9034.

(2) If the Commission makes a determination of a candidate's eligibility under subsection (a) in a Presidential election year, the Commission shall certify to the Secretary of the Treasury, within 10 business days after the Commission has made its determination, the amount to which the candidate is entitled.

(3) If the Commission makes a determination of a candidate's eligibility under subsection (a) in the year preceding the Presidential election year, the Commission shall notify the candidate that he or she is eligible to receive matching fund payments; however, the Commission's determination will not result in a payment of funds to the candidate until after January 1 of the Presidential election year.

§ 9036.2 Additional submissions for matching fund payments.

(a) *Time for submission of additional submissions.* The candidate may submit additional submission for payments to the Commission on dates to be determined and published by the Commission.

(b) *Format for additional submissions.* The candidate may obtain additional matching fund payments subsequent to the Commission's threshold certification and payment of primary matching funds to the candidate by filing an additional submission for payment. All additional submissions for payments filed by the candidate shall be in accordance with the Federal Election Commission's Guideline for Presentation in Good Order. The candidate shall file all information required for threshold eligibility under 11 CFR 9036.1, except that:

(1) The candidate is not required to resubmit the candidate agreement and certifications of 11 CFR 9033.1 and 9033.2;

(2) The candidate is required to submit an alphabetical list of contributors, but not segregated by state as required in the threshold submission;

(3) The candidate is required to submit a listing, alphabetical by contributor, of all checks returned unpaid, but not segregated by state as required in the threshold submission; and

(4) The occupation and employer's name need not be disclosed for individuals whose aggregate contributions exceed $200 per calendar year, except that such information is subject to the recordkeeping and reporting requirements of 2 U.S.C.

432(c)(3), 434(b)(3)(A) and 11 CFR 102.9(a)(2), 104.3(a)(4)(i).

(c) *Certification of additional payments by Commission.* (1) (i) When a candidate who is eligible under 11 CFR 9033.4 submits an additional submission for payment in the Presidential election year, the Commission may certify to the Secretary of the Treasury within 5 business days after the Commission's receipt of information submitted by the candidate under paragraph (a) of this section, an amount based on the holdback procedure described in the Federal Election Commission's Guideline for Presentation in Good Order.

(ii) The Commission shall certify to the Secretary any additional amount to which the eligible candidate is entitled, if any, within 15 business days after the Commission's receipt of information submitted by the candidate under paragraph (a) of this section. See 11 CFR 9036.4 for Commission procedures for certification of additional payments.

(2) After a candidate's date of ineligibility, the Commission shall certify to the Secretary of the Treasury within 15 business days of receipt of information submitted by the candidate under paragraph (a) of this section, an amount to which the ineligible candidate is entitled in accordance with 11 CFR 9034.1(b).

(d) *Additional submissions submitted in non-Presidential election year.* The candidate may submit additional contributions for review during the year preceding the Presidential election year, however, the amount of each submission made during this period must exceed $50,000. Additional submissions filed by a candidate in a non-Presidential election year will not result in payment of matching funds to the candidate until after January 1 of the Presidential election year.

§ 9036.3 Insufficient documentation.

Contributions which are otherwise matchable may be rejected for matching purposes because of insufficient supporting documentation. Contributions, other than those defined in 11 CFR 9034.3 or in the form of money orders, cashier's checks, or similar negotiable instruments, may become matchable if there is a proper resubmission in accordance with 11 CFR 9036.5 and 9036.6. Insufficient documentation includes:

(a) Discrepancies in the written instrument, such as:

(1) Instruments drawn on other than personal accounts of contributors and not signed by the contributing individual;

(2) Signature discrepancies; and

(3) Lack of the contributor's signature, the amount or date of the contribution, or the listing of the committee or candidate as payee;

(b) Discrepancies between listed contributions and the written instrument or supporting documentation, such as:

(1) The listed amount requested for matching exceeds the amount contained on the written instrument;

(2) A written instrument has not been submitted to support a listed contribution;

(3) The submitted written instrument cannot be associated either by accountholder identification or signature with the listed contributor; or

(4) A discrepancy between the listed contribution and the supporting bank documentation or the bank documentation is omitted.

(c) Discrepancies within or between contribution lists submitted, such as:

(1) The address of the contributor is omitted or incomplete or the contributor's name is alphabetized incorrectly, or more than one contributor is listed per item; and

(2) A discrepancy in aggregation within or between submissions, or a listing of a contributor more than once within the same submission.

(d) The omission of information, supporting statements, or documentation required by 11 CFR 9034.2.

§ 9036.4 Commission review of submissions.

(a) *Non-acceptance of submission for review of matchability.* The Commission will make an initial review of each submission made under 11 CFR Part 9036 to determine if it meets the format requirements of 11 CFR 9036.1(b) and 9036.2(b) and the Federal Election Commision's Guideline for Presentation in Good Order. If the Commission determines that a submission does not meet these requirements, it will not review the matchability of the contributions contained therein. In such a case, the Commission will return the submission to the candidate and request that it be corrected in accordance with the format requirements. If the candidate makes a corrected submission within three (3) business days after the Commission's return of the original, the Commission will review the corrected submission prior to the next regularly-scheduled submission date. Corrected submissions made after this three day period will be reviewed subsequent to the next regularly-scheduled submission date.

(b) *Acceptance of submission for review of matchability.* If the Commission determines that a submission made under Part 9036 satisfies the format requirements of 11 CFR 9038.1(b) and 9038.2(b) and the Federal Election Commission's Guideline for Presentation in Good Order, it will review the matchability of the contributions contained therein. The Commission, in conducting its review, may utilize statistical sampling techniques. Based on the results of its review, the Commission may calculate a matchable amount for the submission which is less than the amount requested by the candidate. If the Commission certifies for payment to the Secretary of the Treasury an amount that is less than the amount requested by the candidate in a particular submission, or reduces the amount of a subsequent certification to the Secretary by adjusting a previous certification made under 11 CFR 9036.2(c)(1), the Commission shall notify the candidate in writing of the following:

(1) An amount representing the difference between the amount requested and the amount to be certified by the Commission;

(2) The amount of each contribution and the corresponding contributor's name for each contribution that the Commision has rejected as non-matchable and the reason that it is not matchable; or if statistical sampling is used, the estimated amount of contributions by type and the reason for rejection;

(3) The amount of contributions that have been determined to be matchable and that the Commission will certify to the Secretary of the Treasury for payment; and

(4) A statement that the candidate may supply the Commission with additional documentation or other information in the resubmission of any rejected contribution under 11 CFR 9036.5 in order to show that a rejected contribution is matchable under 11 CFR 9034.2.

(c) *Adjustment of amount to be certified by Commission.* The candidate shall notify the Commission as soon as possible if the candidate or the candidate's authorized committee(s) has knowledge that a contribution submitted for matching does not qualify under 11 CFR 9034.2 as a matchable contribution, such as a check returned to the committee for insufficient funds, so that the Commission may properly adjust the amount to be certified for payment.

(d) *Commission audit of submissions.* The Commission may determine, for the reasons stated in 11 CFR Part 9039, that an audit and examination of contributions submitted for matching payment is warranted. The audit and examination shall be conducted in

accordance with the procedures of 11 CFR Part 9039.

§ 9036.5 Resubmissions.

(a) *Alternative resubmission methods.* Within 30 days of receipt of the results of the submission review pursuant to 11 CFR 9036.4, a candidate may choose to resubmit:

(1) The entire submission; or

(2) The specific contributions that were rejected for matching for which he or she has made a written request.

(b) *Resubmission of contributions.* If the candidate chooses to resubmit any contributions under subsection (a), the contributions shall be resubmitted on a date prescribed by the Commission and shall contain the following information:

(1) All the information required under 11 CFR 9036.1 for a regular submission;

(2) A list which references each contribution to its original submission;

(3) A list reflecting the aggregate amount of contributions submitted for matching from each contributor as of the original submission; and

(4) A list reflecting the aggregate amount submitted per contributor as of the date of the resubmission;

(5) But shall not contain any new or additional contributions not presented with an original submission.

(c) *Certification of resubmitted contributions.* Contributions that the Commission determines to be matchable will be certified to the Secretary of the Treasury within 15 business days. If the candidate chooses to request the specific contributions rejected for matching, the amount certified shall equal only the matchable amount of the particular contribution rather than the amount projected as being non-matchable based on that contribution due to the sampling techniques used in reviewing the original submission.

(d) *Interim determinations.* If the candidate resubmits a contribution for matching and the Commission determines that the rejected contribution is still non-matchable, the Commission shall notify the candidate in writing of its determination. The Commission will advise the candidate of the legal and factual reasons for its determination and of the evidence on which that determination is based. The candidate may submit written legal or factual materials to demonstrate that the contribution is matchable within 30 calendar days of the Commission's notice. Such materials may be submitted by counsel if the candidate so desires.

(e) *Final determinations.* The Commission will consider any written legal or factual materials submitted by the candidate in making its final determination. A final determination by the Commission that a contribution is not matchable shall be accompanied by a written statement of reasons for the Commission's action. This statement shall explain the reasons underlying the Commission's determination and shall summarize the results of any investigation upon which the determination is based.

§ 9036.6 Continuation of certification.

Candidates who have received matching funds and who are eligible to continue to receive such funds may continue to submit additional submissions for payment to the Commission on dates specified in the Federal Election Commission's Guideline for Presentation in Good Order. No contribution will be matched if it is submitted after the last Monday in January of the year following the election, regardless of the date the contribution was deposited.

PART 9037—PAYMENTS

Sec.

9037.1 Payments of presidential primary matching funds.
9037.2 Equitable distribution of funds.
9037.3 Deposits of presidential primary matching funds.

Authority: Sec. 408(a), Pub. L. 93-443, 88 Stat. 1300 (26 U.S.C. 9037).

§ 9037.1 Payments of presidential primary matching funds.

Upon receipt of a written certification from the Commission, but not before the beginning of the matching payment period, the Secretary of the Treasury or his or her delegate will promptly transfer the amount certified from the matching payment account to the candidate.

§ 9037.2 Equitable distribution of funds.

In making such transfers to candidates of the same political party, the Secretary or his or her delegate will seek to achieve an equitable distribution of funds available in the matching payment account, and the Secretary or his or her delegate will take into account, in seeking to achieve an equitable distribution of funds available in the matching payment account, the sequence in which such certifications are received.

§ 9037.3 Deposits of presidential primary matching funds.

Upon receipt of any matching funds, the candidate shall deposit the full amount received into a checking account maintained by the candidate's principal campaign committee in the depository designated by the candidate.

PART 9038—EXAMINATIONS AND AUDITS

Sec.

9038.1 Audit.
9038.2 Repayments
9038.3 Liquidation of obligations; repayment.
9038.4 Extensions of time.

Authority: Sec. 408(c), Pub. L. 93-443, 88 Stat. 1300 (26 U.S.C. 9038).

§ 9038.1 Audit.

(a) *General.* (1) The Commission shall conduct an audit of the qualified campaign expenses of every candidate and his or her authorized committee(s) who received Presidential primary matching funds. The audit may be conducted at any time after the date of the candidate's ineligibility.

(2) In addition, the Commission may conduct other examinations and audits from time to time as it deems necessary to carry out the provisions of this subchapter.

(3) Information obtained pursuant to any audit and examination conducted under paragraphs (a)(1) and (2)(2) of this section may be used by the Commission as the basis, or partial basis, for its repayment determinations under § 9038.2.

(b) *Conduct of fieldwork.* (1) The Commission shall give the candidate's authorized committee at least two weeks' notice of the Commission's intention to commence fieldwork on the audit and examination. The fieldwork shall be conducted at a site provided by the committee.

(i) *Office space and records.* On the date scheduled for the commencement of fieldwork, the candidate or his or her authorized committee(s) shall provide Commission staff with office space and committee records in accordance with the candidate and committee agreement under 11 CFR 9033.1(b)(6).

(ii) *Availability of committee personnel.* On the date scheduled for the commencement of fieldwork, the candidate or his or her authorized committee(s) shall have committee personnel present at the site of the fieldwork. Such personnel shall be familiar with the committee's records and operation and shall be available to Commission staff to answer questions and to aid in locating records.

(iii) *Failure to provide staff, records or office space.* If the candidate or his or her authorized committee(s) fail to provide adequate office space, personnel or committee records, the Commission may seek judicial intervention under 2 U.S.C. 437d or 26 U.S.C. 9040(c) to enforce the candidate

and committee agreement made under 11 CFR 9033.1(b).

(2) Fieldwork will include the following steps designed to keep the candidate and committee informed as to the progress of the audit and to expedite the process:

(i) *Entrance conference*—At the outset of the fieldwork, Commission staff will hold an entrance conference, at which the candidate's representatives will be advised of the purpose of the audit and the general procedures to be followed. Future requirements of the candidate and his or her authorized committee, such as possible repayments to the United States Treasury, will also be discussed. Committee representatives shall provide information and records necessary to conduct the audit, and Commission staff will be available to answer committee questions.

(ii) *Review of records.* During the fieldwork, Commission staff will review committee records and may conduct interviews of committee personnel. Commission staff will be available to explain aspects of the audit and examination as it progresses. Additional meetings between Commission staff and committee personnel may be held from time to time during the fieldwork to discuss possible audit findings and to resolve issues arising during the course of the audit.

(iii) *Exit conference.* At the conclusion of the fieldwork, Commission staff will hold an exit conference to discuss with committee representatives the staff's preliminary findings and recommendations which the Commission staff anticipates that it may present to the Commission for approval. Commission staff will advise committee representatives at this conference of the projected timetable regarding the issuance of an audit report, the committee's opportunity to respond thereto, and the Commission's preliminary and final repayment determinations under § 9038.2.

(3) Commission staff may conduct additional fieldwork after the completion of the fieldwork conducted pursuant to paragraphs (b)(1) and (2) of this section. Factors that may necessitate such follow-up fieldwork include, but are not limited to, the following:

(i) Committee responses to audit findings;

(ii) Financial activity of the committee subsequent to the fieldwork conducted pursuant to paragraph (b)(1) of this section;

(iii) Committee responses to Commission repayment determinations made under § 9038.2.

(4) The Commission will notify the candidate and his or her authorized committee if follow-up fieldwork is necessary. The provisions of paragraphs (b)(1) and (2) of this section shall apply to any additional fieldwork conducted.

(c) *Preparation of audit report.* (1) After the completion of the fieldwork conducted pursuant to paragraph (b)(1) of this section, the Commission will issue an interim audit report to the candidate and his or her authorized committee.

(2) The candidate and his or her authorized committee will have an opportunity to submit, in writing, within 30 days of receipt of the interim report, legal and factual materials disputing or commenting on the contents of the interim report. Such materials may be submitted by counsel if the candidate so desires. Upon application by the candidate within 20 days of receipt of the interim report, the Commission may grant an extension of time of up to 15 days for the candidate to submit such materials in response to the interim report.

(3) The Commission will consider any written legal and factual materials submitted by the candidate or his or her authorized committee in accordance with paragraph (c)(2) of this section before approving and issuing an audit report to be released to the public. The contents of the publicly-released audit report may differ from that of the interim report since the Commission will consider timely submissions of legal and factual materials by the candidate or committee in response to the interim report.

(d) *Contents of audit report.* An audit report made public pursuant to paragraph (c) of this section may contain Commission findings and recommendations regarding one or more of the following areas:

(1) An evaluation of procedures and systems employed by the candidate and committee to comply with applicable provisions of the Federal Election Campaign Act, Primary Matching Payment Account Act and Commission regulations;

(2) Eligibility of the candidate to receive primary matching payments;

(3) Accuracy of statements and reports filed with the Commission by the candidate and committee;

(4) Compliance of the candidate and committee with applicable statutory and regulatory provisions in those instances where the Commission has not instituted any enforcement action on the matter(s) under the provisions of 2 U.S.C. 437g and 11 CFR Part 111; and

(5) Preliminary calculations regarding future repayments to the United States Treasury.

(e) *Public release of audit report.* (1) The Commission shall make public all audit reports, based on examinations and audits conducted pursuant to this section, after the candidate and committee have had an opportunity to respond to a written interim report of the Commission, as provided in paragraph (c) of this section.

(2) If the Commission determines, on the basis of information obtained under the audit and examination process, that certain matters warrant enforcement under 2 U.S.C. 437g and 11 CFR Part 111, those matters will not be contained in the publicly-released report. In such cases, the audit report will indicate that certain other matters have been referred to the Commission's Office of General Counsel.

(3) The Commission will provide the candidate and committee copies of the audit report 24 hours prior to releasing the report to the public.

(4) Addenda to the audit report may be issued from time to time as circumstances change and as additional information becomes available. Such addenda may be based, in part, on follow-up fieldwork conducted under paragraph (b)(2) of this section, and will be placed on the public record.

§ 9038.2 Repayments

(a) *General.* (1) A candidate who has received payments from the matching payment account shall pay the United States Treasury any amounts which the Commission determines to be repayable under this section. In making repayment determinations under this section, the Commission may utilized information obtained from audits and examinations conducted pursuant to 11 CFR 9038.1 and Part 9039 or otherwise obtained by the Commission in carrying out its responsibilities under this subchapter.

(2) The Commission shall notify the candidate of any repayment determinations made under this section as soon as possible, but not later than 3 years after the end of the matching payment period.

(b) *Bases for repayment.* (1) *Payments in Excess of Candidate's Entitlement.* The Commission may determine that certain portions of the payments made to a candidate from the matching payment account were in excess of the aggregate amount of payments to which such candidate was entitled. Examples of such excessive payments include, but are not limited to, the following:

(i) Payments made to the candidate after the candidate's date of ineligibility

where it is later determined that the candidate had no net outstanding campaign obligations as defined in 11 CFR 9034.5;

(ii) Payments or portions of payments made to the candidate which are later determined to have been excessive due to the operation of the Commission's expedited payment procedures as set forth in the Guideline For Presentation In Good Order; and

(iii) Payments or portions of payments made on the basis of matched contributions later determined to have been non-matchable.

(iv) Payments or portions of payments made to the candidate which are later determined to have been excessive due to the candidate's failure to include funds received by a fundraising representative committee under 11 CFR 9034.8 on the candidate's statement of net outstanding campaign obligations under 11 CFR 9034.5.

(2) *Use of funds for non-qualified campaign expenses.* (i) The Commission may determine that amount(s) of any payments made to a candidate from the matching payment account, or contributions received by the candidate, were used for purposes other than those set forth in paragraphs (b)(2)(i) (A) through (C) of this section:

(A) Defrayal of qualified campaign expenses;

(B) Repayment of loans which were used to defray qualified campaign expenses; and

(C) Restoration of funds (other than contributions which were received and expended to defray qualified campaign expenses) which were used to defray qualified campaign expenses.

(ii) Examples of Commission repayment determinations under paragraph (b)(2) of this section include, but are not limited to, the following:

(A) Determinations that a candidate, a candidate's authorized committee(s) or agents have made expenditures in excess of the limitations set forth in 11 CFR Part 9035;

(B) Determinations that funds described in 11 CFR 9038.2(b)(2)(i) were expended in violation of state or federal law; and

(C) Determinations that funds described in 11 CFR 9038.2(b)(2)(i) were expended for expenses resulting from violation of state or federal law, such as the payment of fines or penalties.

(3) *Failure to provide adequate documentation.* The Commission may determine that amount(s) spent by the candidate, the candidate's authorized committee(s), or agents were not documented in accordance with 11 CFR 9033.11.

(4) *Surplus.* The Commission may determine that the candidate's net outstanding campaign obligations, as defined in 11 CFR 9034.5, reflect a surplus.

(c) *Repayment determinations.* Commission repayment determinations shall be made in accordance with the procedures set forth at paragraphs (c)(1) through (c)(4) of this section.

(1) *Initial determination.* The Commission shall provide the candidate with a written notice of its initial repayment determination(s) which sets forth the legal and factual reasons for such determination(s). Such notice shall also advise the candidate of the evidence upon which any such determination is based. If the candidate does not dispute an initial repayment determination of the Commission within 30 days of the candidate's receipt of the notice, such initial determination will be considered a final determination of the Commission.

(2) *Submission of written materials.* If the candidate disputes the Commission's initial repayment determination(s), he or she shall have an opportunity to submit in writing, within 30 days of receipt of the Commission's notice, legal and factual materials to demonstrate that no repayment, or a lesser repayment, is required. The Commission will consider any written legal and factual materials submitted by the candidate within this 30 day period in making its final repayment determination(s). Such materials may be submitted by counsel if the candidate so desires.

(3) *Oral presentation.* A candidate who has submitted written materials under paragraph (c)(2) of this section, may request that the Commission provide such candidate with an opportunity to address the Commission in open session. If the Commission decides by an affirmative vote of four (4) of its members to grant the candidate's request, it will inform the candidate of the date and time set for the oral presentation. At the date and time set by the Commission, the candidate or candidate's designated representative will be allotted an amount of time in which to make an oral presentation to the Commission based upon the legal and factual materials submitted under paragraph (b)(2) of this section. The candidate will also have the opportunity to answer any questions from individual members of the Commission.

(4) *Final determination.* In making its final repayment determination(s), the Commission will consider any submission made under paragraph (c)(2) of this section and any oral presentation made under paragraph (c)(3) of this section. A final determination that a candidate must repay a certain amount shall be accompanied by a written statement of reasons for the Commission's actions. This statement shall explain the reasons underlying the Commission's determination and shall summarize the results of any investigation upon which the determination is based.

(d) *Repayment period.* (1) Within 90 days of the candidate's receipt of the notice of the Commission's initial repayment determination(s), the candidate shall repay to the Secretary of the Treasury amounts which the Commission has determined to be repayable. Upon application by the candidate, the Commission may grant an extension of up to 90 days in which to make repayment.

(2) If the candidate submits written materials under paragraph (c)(2) of this section disputing the Commission's initial repayment determination(s), the time for repayment will be tolled until the Commission makes its final repayment determination(s). Within 20 days of the candidate's receipt of the notice of the Commission's final repayment determination(s), the candidate shall repay to the Secretary of the Treasury amounts which the Commission has determined to be repayable. Upon application by the candidate, the Commission may grant an extension of up to 90 days in which to make repayment.

(e) *Computation of time.* The time periods established by this section shall be computed in accordance with 11 CFR 111.2.

(f) *Additional repayments.* Nothing in this section shall prevent the Commission from making additional repayment determinations on one or more of the bases set forth at 11 CFR 9038.2(b) after it has made a final determination on any such basis. The Commission may make additional repayment determinations where there exist facts not used as the basis for a previous final determination. Any such additional repayment determination shall be made in accordance with the provisions of this section.

(g) *Newly-discovered assets.* If, after any initial or final repayment determination made under this section, a candidate or his or her authorized committee(s) receives or becomes aware of assets not previously included in any statement of net outstanding campaign obligations submitted pursuant to 11 CFR 9034.5, the candidate or his or her authorized committee(s) shall promptly notify the Commission of such newly-discovered assets. Newly-discovered assets may include refunds, rebates,

late-arriving receivables, and actual receipts for capital assets in excess of the value specified in any previously-submitted statement of net outstanding campaign obligations. Newly-discovered assets may serve as a basis for additional repayment determinations under 11 CFR 9038.2(f).

§ 9038.3 Liquidation of obligations; repayment.

(a) The candidate may retain amounts received from the matching payment account for a period not exceeding 6 months after the matching payment period to pay qualified campaign expenses incurred by the candidate.

(b) After all obligations have been liquidated, the candidate shall so inform the Commission in writing.

(c) (1) If on the last day of candidate eligibility the candidate's net outstanding campaign obligations, as defined in 11 CFR 9034.5, reflect a surplus, the candidate shall within 30 days of the ineligibility date repay to the Secretary of the Treasury an amount which represents the amount of matching funds contained in the candidate's surplus. The amount shall be an amount equal to that portion of the surplus which bears the same ratio to the total surplus that the total amount received by the candidate from the matching payment account bears to the total deposits made to the candidate's accounts.

(2) For purposes of this subsection, total deposits shall be considered all deposits to all candidate accounts minus transfers between accounts, refunds, rebates, reimbursements, checks returned for insufficient funds, proceeds of loans and other similar amounts.

(3) Notwithstanding the payment of any amounts to the United States Treasury under this section, the Commission may make surplus repayment determination(s) which require repayment in accordance with 11 CFR 9038.2.

§ 9038.4 Extensions of time.

(a) It is the policy of the Commission that extensions of time under this Part shall not be routinely granted.

(b) Whenever a candidate has a right or is required to take action within a period of time prescribed by this Part or by notice given thereunder, the candidate may apply to the Commission for an extension of time in which to exercise such right or take such action. The candidate shall demonstrate in the application for extension that good cause exists for his or her request.

(c) An application for extension of time shall be made at least 7 calendar days prior to the expiration of the time period for which the extension is sought. The Commission may, upon a showing of good cause, grant an extension of time to a candidate who has applied for such extension in a timely manner. The length of time of any extension granted hereunder shall be decided by the Commission and may be less than the amount of time sought by the candidate in his or her application.

(d) If a candidate fails to seek an extension of time, exercise a right or take a required action prior to the expiration of a time period prescribed by this part, the Commission may, on the candidate's showing of excusable neglect:

(1) Permit such candidate to exercise his or her right(s), or take such required action(s) after the expiration of the prescribed time period; and

(2) Take into consideration any information obtained in connection with the exercise of any such right or taking of any such action before making decisions or determinations under this part.

PART 9039—REVIEW AND INVESTIGATION AUTHORITY

Sec.

9039.1 Retention of books and records.
9039.2 Continuing review.
9039.3 Examinations and audits; investigations.

Authority: Sec. 310(8), Pub. L. 92–225, added by sec. 208, Pub. L. 93–443, 88 Stat. 1297, and amended by secs. 105 and 107(a)(1), Pub. L. 94–283, 90 Stat. 481 (2 U.S.C. 437(a)(8), and sec. 408(c), Pub. L. 93–443, 88 Stat. 1297 (26 U.S.C. 9039)).

§ 9039.1 Retention of books and records.

The candidate and his or her authorized committee(s) shall keep all books, records and other information required under 11 CFR 9033.11, 9034.2 and Part 9036 and shall furnish such books, records and information to the Commission on request.

§ 9039.2 Continuing review.

(a) In reviewing candidate submissions made under 11 CFR Part 9036 and in otherwise carrying out its responsibilities under this chapter, the Commission may routinely consider information from the following sources:

(1) Any and all materials and communications which the candidate and his or her authorized committee(s) submit or provide under 11 CFR Part 9036 and in response to inquiries or requests of the Commission and its staff; and

(2) Disclosure reports on file with the Commission.

(b) In carrying out the Commission's responsibilities under this chapter, Commission staff may contact representatives of the candidate and his or her authorized committee(s) to discuss questions and to request documentation concerning committee activities and any submission made under 11 CFR Part 9036.

§ 9039.3 Examinations and audits; investigations.

(a) *General.* (1) The Commission will consider information obtained in its continuing review under 11 CFR 9039.2 in making any certification, determination or finding under this chapter. If the Commission decides by an affirmative vote of four of its members that additional information must be obtained in connection with any such certification, determination or finding, it shall conduct a further inquiry. A decision to conduct an inquiry under this section may be based on information that is obtained under 11 CFR 9039.2, received by the Commission from outside sources, or otherwise ascertained by the Commission in carrying out its supervisory responsibilities under the Presidential Primary Matching Payment Account Act and the Federal Election Campaign Act.

(2) An inquiry conducted under this section may be used to obtain information relevant to candidate eligibility, matchability of contributions and repayments to the United States Treasury. Information obtained during such an inquiry may be used as the basis, or partial basis, for Commission certifications, determinations and findings under 11 CFR Parts 9033, 9034, 9036 and 9038. Information thus obtained may also be the basis of, or be considered in connection with, an investigation under 2 U.S.C. 437 and 11 CFR Part 111.

(3) Before conducting an inquiry under this section, the Commission will attempt to obtain relevant information under the continuing review provisions of 11 CFR 9039.2. Matching payments shall not be withheld pending the results of an inquiry under this section unless the Commission finds patent irregularities suggesting the possibility of fraud in materials submitted by, or in the activities of, the candidate or his or her authorized committee(s).

(b) *Procedures.* (1) The Commission shall notify the candidate of its decision to conduct an inquiry under this section. The notice shall summarize the legal and factual basis for the Commission's decision.

(2) The Commission's inquiry may include, but is not limited to, the following:

(i) A field audit of the candidate's books and records;

(ii) Field interviews of agents and representatives of the condidate and his or her authorized committee(s);

(iii) Verification of reported contributions by contacting reported contributors;

(iv) Verification of disbursement information by contacting reported vendors;

(v) Written questions under order;

(vi) Production of documents under subpoena;

(vii) Depositions.

(3) The provisions of 2 U.S.C. 437g and 11 CFR Part 111 shall not apply to inquiries conducted under this section except that the provisions of 11 CFR 111.12 through 111.15 shall apply to any orders or subpoenas issued by the Commission.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) Regulatory Flexibility Act

I certify that the attached proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that no entity is required to make any expenditures under the proposed rules.

Dated: August 10, 1982.

Frank P. Reiche,

Chairman, Federal Election Commission.

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Tuesday
August 17,1982

Part III

Department of the Interior

Bureau of Land Management

Geologic and Hobby Mineral Materials—Collecting; Operations; Rules of Conduct

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3620, 3630 and 8360

Geologic and Hobby Mineral Materials—Collecting; Rules of Conduct

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would establish procedures under which fossils, geologic materials and hobby mineral materials may be removed from the public lands administered by the Bureau of Land Management. Existing regulations provide for the collection of limited types of fossils and hobby mineral materials under the provisions of various statutes. This rulemaking would combine provisions for the collection and mangement of fossils, petrified wood and othe hobby mineral materials (crystals, agate, geodes, etc.) under a new part and would eliminate the duplication of standards and procedures found in other parts of the Code of Federal Regulations.

DATE: Comments by October 18, 1982.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert J. Sulenski, (202) 343-3207.

SUPPLEMENTARY INFORMATION: Existing regulations provide for the collection of geologic and hobby mineral materials from the public lands administered by the Bureau of Land Management, but are not limited to the removal of (1) Vertebrate fossils for scientific purposes under an administrative interpretation of the Antiquities Act of 1906 (16 U.S.C. 431 et seq.); (2) common invertebrate fossils, rocks, mineral specimens and gem stones for hobby collections under the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and (3) petrified wood under the provisions of the Act of September 28, 1962 (30 U.S.C. 611).

The intent of this proposed rulemaking is to combine the collection provisions for petrified wood (43 CFR Subpart 3622) and for hobby specimens presently in 43 CFR 8363.2-1 with the provisions for scientific collection of vertebrate fossils authorized under the Antiquities Act. This proposed rulemaking would include all collection provisions under a new subpart 3630 and would: (1) Reduce duplication of various collection provisions; (2) simplify permitting procedures; and (3) make the scientifically collected materials more widely available for research and study. With the consolidation of the collection provisions into one subpart by this proposed rulemaking, three types of permit procedures would be provided, including a scientific free use permit, a commercial permit and a blanket authorization. In addition, this rulemaking would identify activities not requiring a permit and would clarify the limitations for collection of fossils and hobby mineral materials on public lands.

The principal author of this proposed rulemaking is Robert J. Sulenski, Division of Geology and Minerals Assessment, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The information collection requirements contained in 43 CFR Part 3630 have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

Under the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) and section 2 of the Act of September 28, 1962 (30 U.S.C. 611), it is proposed to amend Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations by adding a new subpart 3631 as set forth below:

List of Subjects

43 CFR Part 3620

Mineral resources, Public lands—mineral resources.

43 CFR Part 3630

Administrative practice and procedure, Historic preservation, Hobbies, Public lands—mineral resources, Public lands—recreation.

43 CFR Part 8360

Environmental protection, Public lands—recreation, Traffic regulations.

1. Group 3600 is amended by adding a new Part 3630 as follows:

SUBCHAPTER C

Group 3600—Mineral Materials Disposal and Geology

PART 3630—GEOLOGIC AND HOBBY MINERAL MATERIALS

Subpart 3631—Geologic and Hobby Minerals Materials; Collecting

Sec.

3631.0-1 Purpose.
3631.0-2 Objectives.
3631.0-3 Authority.
3631.0-5 Definitions.
3631.1 Permits.
3631.1-1 General.
3631.1-2 Scientific free use permit.
3631.1-3 Commerical permit.
3631.1-4 Blanket authorizations.
3631.1-5 Action on an application for a permit.
3631.2 Operations.
3631.2-1 Special provisions.
3631.2-2 Reports.
3631.2-3 Bonding.
3631.2-4 Renewal of permits.
3631.2-5 Suspension of operations.
3631.2-6 Revocation of a permit.
3631.2-7 Appeals.
3631.2-8 Unauthorized use.
3631.2-9 Penalties.

Authority: Secs. 202(c) and 302(b), Federal Land Management and Policy Act of 1976 (43 U.S.C. 1712(c), 1732(b)); sec. 2, Federal Land Management and Policy Act of 1962 (30 U.S.C. 611)

PART 3630—GEOLOGIC AND HOBBY MINERAL MATERIALS

Subpart 3631—Geologic and Hobby Minerals Materials; Collecting

§ 3631.0-1 Purpose.

The purpose of this part is to provide procedures to permit the collection of geologic and hobby mineral materials from the public lands and to protect or preserve significant fossils, geologic materials and other resources on the public lands from degradation.

§ 3631.0-2 Objectives.

The objective of this part is to assure that the scientific, commercial and amateur collection of geologic and hobby mineral materials is conducted under conditions that adequately protect and preserve the public lands and resources including significant fossils and geologic materials.

§ 3631.0-3 Authority.

This part is issued under the authority of section 202(c) and 302(b) of the Federal Land Management and Policy Act of 1976 (43 U.S.C. 1712(c), 1732(b)), and section 2 of the Act of September 28, 1962 (30 U.S.C. 611).

§ 3631.0-5 Definitions.

As used in this part, the term:

(a) "Authorized officer" means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described in this part.

(b) "Casual use" means activities ordinarily resulting in only negligible disturbance of the public lands and resources. Activities that are generally considered casual use include geologic mapping and reconnaissance, incidental collection of exposed surface materials and other such activities when they: (1) Do not involve the use of mechanized earth moving equipment or explosives; (2) do not involve the use of motorized vehicles in areas where such use is prohibited by off-road vehicle designation; (3) do not involve the excavation of more than 2 cubic meters of sample material per location or outcrop; (4) do not occur in a protected area; or (5) do not require the establishment of base camps or field stations.

(c) "Common fossil" means a fossil that is abundant, is widely distributed in time or space except those that provide unique, special, distinct or exceptional information not found in other specimens of the same species.

(d) "Fossil of significant scientific interest" means a fossil which is unique, rare or particularly well-preserved; is an unusual assemblage of common fossils; is of high scientific interest; or provides important new data concerning:

(1) Evolutionary trends;

(2) Development of biological communities or interaction between organisms;

(3) Unusual or spectacular circumstances in the history of life; or

(4) Anatomical structure.

(e) "Fossils with evidence of human association" means a fossil which shows signs, marks or other features indicative of human activity or which is found in a context that might be the result of human activity.

(f) "Museum pieces of petrified wood" means a specimen weighing over 250 pounds.

(g) "Protected area" means an area, such as a natural area, containing fossils, geologic materials or other values which is established for study, research, education or display.

(h) "Geologic materials" means rocks, fossils, mineral specimens and other similar materials primarily collected for their scientific value.

(i) "Hobby mineral materials" means rocks, common invertebrate and vertebrate fossils, petrified wood, mineral specimens, crystals, gem stones and other such materials collected primarily for their recreational value.

(j) "Fossil" means the remains or trace of an organism which has been preserved by natural processes in the earth's crust. The energy minerals, such as coal, oil shale, bitumen, lignite asphaltum and tar sands, as well as some industrial minerals, such as phosphate, limestone, diatomaceous earth and coquina, while of biologic orgin, are not considered "fossils" in this part. Fossils of significant scientific interest may occur within or in association with such materials.

(k) "Public lands" means any lands and interest in lands owned by the United States within the several States and administered by the Secretary of the Interior, through the Bureau of Land Management, without regard to how the United States acquired ownership, except:

(1) Lands located on the Outer Continental Shelf; and

(2) Lands held for the benefit of Indians, Aleuts and Eskimos.

(l) "Reasonable quantities" when applied to hobby collection means that each collector may remove up to 25 pounds of common fossils or hobby mineral materials per day, but this amount may not exceed 250 pound in any calendar year. Pooling of individual quotas to obtain pieces larger than 25 pounds shall be considered an unauthorized use.

§ 3631.1 Permits.

§ 3631.1-1 General.

(a) A permit shall be required for:

(1) Taking fossils of significant scientific interest;

(2) Collecting fossils and geologic materials in protected areas;

(3) Taking of any fossils or hobby mineral material for commercial purposes; and

(4) The establishment of base camps, field stations; the use of explosives or mechanized earth moving equipment; large scale excavations; and other such activities that constitute more than a "casual use" of the public lands.

(b) No permit shall be required for:

(1) Geologic or plaeontologic mapping and reconnaissance;

(2) Incidential scientific collection of exposed suface materials and samples;

(3) Other casual use activities as defined in § 3631.0-4(k) of this title;

(4) Collection of common fossils and other hobby mineral materials in reasonable quantities for hobby or personal use in most areas not set aside or protected for other purposes; or

(5) Collection of common fossils or other hobby mineral materials in areas designated as hobby collection areas.

(c) *Limitations.* (1) Materials collected under scientific free use permits or for hobby or recreational use shall not be used for sale. Such use constitutes unauthorized use.

(2) Fossils with evidence of human association are deemed to be cultural resources and may be collected only under the provisions of section 10 of Title 43 of the Code of Federal Regulations. When found on public lands, such fossils should be reported to the nearest Bureau of Land Management office.

(3) Collecting more than "reasonable quantities" as specified in § 3631.0-5(k)(1) of this title constitute unauthorized use.

(4) Collection of common fossils or other hobby mineral materials in areas designated as hobby collection areas may be authorized under provisions of § 8363 of this title.

(5) Fossils of significant scientific interest may not be collected at any time except under a scientific free use permit or blanket authorization.

(6) When found by hobby collectors, a specimen on public lands that is suspected or known to be a fossil of significant, scientific interest shall be reported to the nearest Bureau of Land Management office. The specimen, upon confirmation of its significance shall be donated to a museum, university or other scientific institution of the finder's choice for proper care and study.

§ 3631.1-2 Scientific free use permit.

(a) A scientific free use permit may be issued by the authorized officer for a period not to exceed 2 years for the purpose of:

(1) Excavating more than 2 cubic meters of material at any location or outcrop.

(2) Collecting fossils of significant scientific interest;

(3) Collecting fossils or geologic materials in protected areas; and

(4) Collecting museum pieces of petrified wood.

(b) A scientific free use permit issued by the authorized officer may contain such terms and conditions as he/she deems necessary to protect the public lands and their resources and:

(1) Shall not convey ownership of collected materials to the permittee; and

(2) Shall specify that the collected materials remain the property of the United States; and

(3) Shall require that a report of findings and results be submitted to the authorized officer within 6 months of the expiration of the permit; and

(4) Shall require that all materials collected under the permit be made available for study by other scientists within 2 years after the expiration of the permit.

(c) An application for a scientific free use permit requires no special form and shall be filed in the State, District or Area office of the Bureau of Land Management having jurisdiction over the lands in which the fossils or geologic materials are located. The application shall not be filed less than 6 months prior to the proposed commencement of activities and shall provide the following: name, legal mailing address, telephone number and professional affiliation of the person responsible for the operations covered by the application; a map or maps at a scale of 1:250,000 or larger delineating the proposed area of operations; a description of the major geologic features of the proposed area of operations, including rock formation names and ages; detailed plans for the extraction of the fossils or other geologic materials and reclamation of the lands; the approximate dates of commencement and termination of the operations; and a description of the purpose of the investigation or activity. Each application shall be accompanied by a non-refundable filing fee of $25.

§ 3631.1-3 Commercial permit.

(a) The authorized officer may issue a commercial permit for a period of not more than 3 years that contains terms and conditions he/she deems necessary to protect the public lands and other resources, including those resources and uses outside of the permit area and shall specify that any discovered fossils of significant scientific interest shall remain the property of the United States.

(b) An application for a commercial permit requires no special form, and shall be filed in the State, District or Area office of the Bureau of Land Management having jurisdiction over the lands in which the fossils and hobby mineral materials are located. The application shall not be filed less than 6 months prior to the proposed commencement of activities and shall provide the following: the name, legal mailing address and telephone number of the person responsible for the operations covered by the application; a map or maps at a scale of 1:250,000 or larger delineating the proposed area of operations; a description of the major geologic features of the proposed area of operations, including rock formation names and ages; detailed plans for the extraction of the fossils or other hobby mineral materials and reclamation of the lands; and the approximate dates of commencement and termination of the operations; and a description of the types of fossils or other materials sought.

(c) Each application shall be accompanied by a non-refundable filing fee of $25.

(d) In the case of commercial permits, the authorized officer shall set a fee based on the estimated fair market value of the fossils or other hobby mineral materials taken for commercial purposes.

(e) Where the authorized officer determines that there is evidence of competitive commercial interest in the fossils or other hobby mineral materials, tracts may be offerd by the authorized officer with bids beginning at the minimum appraised price.

§ 3631.1-4 Blanket authorization.

A blanket authorization is hereby granted to the U.S. Geological Survey and the Smithsonian Institution for Federally-sponsored research on the public lands. This blanket authorization:

(a) Authorizes the collection of fossils specimens, including fossils of significant scientific interest, and geologic materials only as part of a Federally-sponsored or institutionally approved research project;

(b) Authorizes surveys, surface collection of isolated finds and excavation of up to 2 cubic meters of material per location or outcrop;

(c) Does not provide for the exclusive use of any portion of the public lands;

(d) Requires that the authorized officer having jurisdiction over the lands on which the activities will take place be notified of the intent to commence activities not less than 30 days prior to their commencement; and

(e) Requires that a report of findings and results be submitted to the appropriate authorized officer within 6 months of the cessation of activities.

§ 3631.1-5 Action on an application for a permit.

Within 30 days after receipt of an application for a permit, the authorized officer shall review the application and shall notify the applicant in writing:

(a) That the application is approved and a permit issued; or

(b) That the application is disapproved and the permit denied, and the reasons therefor; or

(c) Of any changes in, or additions to, the application deemed necessary by the authorized officer to meet the purpose of the regulations of this part; or

(d) That the application is being reviewed, but additional time, not to exceed 30 days, is necessary to complete the review. The authorized officer shall set forth the reasons why additional time is necessary; or

(e) That the application, upon review by the authorized officer, is deemed to be an activity not requiring a permit.

§ 3631.2 Operations.

§ 3631.2-1 Special provisions.

(a) All commercial operations shall be conducted under 43 CFR Part 3600 (Mineral Materials Disposal) of this title.

(b) The authorized officer may inspect any permitted operation and require a change in the manner of conducting operations in order to minimize harm or disturbance to the environment and resources. The reason for such change(s) shall be furnished to the permittee in writing. If the permittee does not make the changes required, the authorized officer may suspend operations or revoke the permit.

(c) The holder of a commercial permit shall notify the authorized officer immediately if a specimen is found that is suspected or known to be a fossil of significant scientific interest. The authorized officer may temporarily suspend commercial operations, where a fossil of significant scientific interest is reported, if it is determined that continued activity would jeopardize the specimen.

§ 3631.2-2 Reports.

(a) Six months after the expiration of a scientific free use permit, a report shall be submitted describing the work done, excavations made, materials collected, catalog numbers, the preliminary scientific results of the work and the name and location of the repository of the collected materials.

(b) A report shall be submitted annually for each commercial permit describing the approximate number and the kind of fossils or other hobby mineral materials collected.

(c) One month after the expiration of a commercial permit, a report shall be submitted estimating the amount of material remaining, if any.

(d) Failure to submit a required report for a scientific free use permit or a commercial permit in a timely manner, or failure to submit a complete report,

may be used as a basis for rejecting subsequent applications.

§ 3631.2–3 Bonding.

(a) The authorized officer may waive the requirement for a bond on a permit issued to a State and its political subdivisions and bona fide nonprofit research organizations.

(b) Prior to the issuance of a permit, an applicant (other than a Federal agency or institution), may be required to furnish a bond in an amount to be determined by the authorized officer conditioned upon compliance with the terms of the permit. Bonding requirements may be increased or decreased, as deemed appropriate by the authorized officer.

(c) In lieu of a bond, the applicant may deposit and maintain in a Federal depository, as directed by the authorized officer, cash in an amount equal to the required dollar amount of the bond or negotiable securities of the United States having a market value at the time of deposit of not less than the required dollar amount of the bond.

(d) When operations have been completed, the permittee shall notify the authorized officer who shall, if satisfied that the permittee has complied with the provisions of the permit, release the bond.

§ 3631.2–4 Renewal of permits.

Permits may be renewed for additional 3 year periods provided:

(a) The terms of the permit remain the same, or are adjusted as agreed to by the permittee and the authorized officer;

(b) The terms of the previous permit have not been violated;

(c) No other management activities are determined to have priority; and

(d) The need for additional time has been established.

§ 3631.2–3 Suspension of operations.

If a permittee fails to comply with required changes in operations or with any provisions of the permits or of the provisions under part 3600 of this title, the authorized officer may suspend operations. No permit shall be suspended until the permittee has been notified in writing or in person. A suspension shall be effective upon delivery.

§ 3631.2–4 Revocation of a permit.

A permit may be revoked by the authorized officer if the permittee fails to comply with required changes in operations or with any of the provisions of the permit or of the provisions under subpart 3600 of this title. No permit shall be revoked until the permittee has been notified in writing or in person. A revocation shall be effective upon delivery.

§ 3631.2–5 Appeals.

If the application is rejected or denied, the operation is suspended or permit revoked, the applicant may, in accordance with procedures in part 4 of this title, file a notice of appeal and a statement of the reasons for the appeal.

§ 3631.2–6 Unauthorized use.

The extraction, severance, injury or removal of fossils and geologic and other hobby mineral materials from the public lands except as authorized by law or regulations, is an unauthorized use. Persons committing such acts shall be liable for damages to the United States and shall be subject to prosecution for such acts.

§ 3631.2–7 Penalties

Any person who knowingly and willfully violates the provisions under part 3630 of this title shall, upon conviction, be subject to a fine of note more than $1,000 or to imprisonment for not more than 12 months, or both.

PART 3620—FREE USE

Subparts 3622 and 3623 [Removed]

2. Part 3620 is amended by removing Subparts 3622 and 3623 in their entirety.

PART 8360—OPERATIONS

3. Subpart 8363 is amended by revising paragraphs (a) and (c) of § 8363.2–1 to read as follows:

§ 8363.2–1 Permitted activities.

(a) *Collecting—hobby specimens.* Flowers, berries, nuts, seeds, cones, leaves and similar renewable resources may be collected in reasonable quantities for personal use, consumption or hobby collecting. Limitations on this privilege are contained in § 8363.2–2 of this title; and

* * * * *

(c) *Petrified wood and hobby mineral materials* such as rocks, mineral specimens, common fossils and gem stones may be collected under the provisions of Part 3630 of this title.

* * * * *

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 29, 1982.

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August 17, 1982

Part IV

Department of Justice

Bureau of Prisons

Control, Custody, Care, Treatment and Instruction of Inmates; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 541

Control, Custody, Care, Treatment and Instruction of Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: This document contains the Bureau of Prisons final rule relating to Inmate Discipline (including withholding and forfeiture of good time credits) and Special Housing Units. The rule identifies inmate rights and responsibilities, as well as the prohibited acts and disciplinary severity scale which exists within the Bureau of Prisons. Sanctions that may be imposed on an inmate who commits a specific prohibited act are also identified. This rule is intended to allow inmates confined within a Bureau of Prisons institution the opportunity to live in a safe and orderly environment by authorizing institution authorities to impose discipline on those inmates whose behavior, as evidenced by commission of a prohibited act(s), is likely to adversely effect the security, good order, or discipline of the institution, or threaten the safety of the inmate or others.

EFFECTIVE DATE: September 20, 1982.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 First Street, NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724-3062.

SUPPLEMENTARY INFORMATION: In this document the Bureau of Prisons is publishing its final rule on Inmate Discipline and Special Housing Units. This subject was last published in the **Federal Register** as an interim rule on Inmate Discipline April 18, 1979 (at 44 FR 23174 et seq.) Interested persons were invited to submit comments on the interim rule. On the basis of these comments and internal staff review, some changes have been made. Members of the public may submit further comments concerning this final rule by writing the previously cited address. These comments will be considered but will receive no further response in the **Federal Register.**

The Bureau of Prisons has determined that this rule in not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this set of rulemaking since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

Summary of Changes/Comments

1. Section 541.10—The final rule deletes all reference to "rules" being established by the institution. The term "rules" is indicative of national policy. For this reason, this final rule on Inmate Discipline uses the term "rules" to refer to the policies of the Central Office, Bureau of Prisons. Individual institutions, where necessary to implement the Bureau's national policy, may issue institution guidelines.

Final § 541.10(b)(6) is expanded. When a person is determined not responsible for his conduct, the Incident Report is to show as a finding that the person did not commit the prohibited act because that person was determined not mentally responsible for his conduct. When a person is determined incompetent, the disciplinary proceedings are postponed until such time as the inmate is able to understand the proceedings. If competency is not restored within a reasonable period of time, the Incident Report is to show as a finding that the inmate is incompetent to assist in his defense at the disciplinary proceedings.

In response to comment, the term "mental health professional" in § 541.10(b)(6) ordinarily refers to a psychiatrist or clinical psychologist. While we agree with, and adhere to, the comment that an inmate determined incompetent should be afforded treatment and care, it is not necessary to include this statement in the final rule on Inmate Discipline.

2. Section 541.11—Section 541.11 is retitled "Notice to inmate of Bureau of Prisons rules". Tables 2 and 3 identified in interim § 541.11(b) become Tables 1 and 2 in the final rule. Final Table 1 has undergone some minor revisions. The term "staff" is substituted for "officer", and the term "correctional supervisor" is substituted for "supervisor". For clarity, Table 1 now refers to "allowable" sanctions, rather than "major" or "minor". In identifying the action that may be taken on an appeal, the Table now includes the phrase "send back with directions". Final Table 2 requires the initial hearing to be held within two work days, excluding the day of notice (rather than the interim rule's 48 hours).

Section 541.11 (c), (d), and (e) now state that the inmate is to be notified respectively of the inmate's rights and responsibilities, of the prohibited acts and disciplinary severity scale, and of the sanctions by severity of prohibited act, with eligibility for restoration of forfeited and withheld statutory good time. The specific information on each area, previously contained in interim § 541.11 (c), (d), and (e) is now included in new final §§ 541.12 and 541.13.

3. Section 541.12—Final § 541.12, "Inmate rights and responsibilities", contains information previously in § 541.11(c). Right #5 and Responsibility #5 refer to Bureau rules and institution guidelines, rather than to facility or institution rules. Responsibility #4 adds the phrase "to keep your area free of contraband" because an inmate is not permitted to possess contraband.

We disagree with a comment that the "Rights" are subject to arbitrary enforcement and interpretation by staff. The "Rights" provide the inmate with a general understanding of what to expect while confined. We do not consider it practicable to adopt a suggestion that specific Bureau regulations and/or Program Statements be referenced within this section. In those areas where more specific information is desired, the inmate may directly contact the appropriate area or request current information from Bureau staff.

It is unclear as to what the commenter refers with the term "arbitrary enforcement and interpretation by staff". An inmate who believes staff are abusing his rights may file a grievance through the Administrative Remedy Procedure (28 CF Part 542). In addition, the "Rights", in and of themselves, do not subject an inmate to disciplinary action. Disciplinary action may be taken only on the basis of believing that the inmate committed one or more of the prohibited acts identified in final § 541.13.

The same commenter states that the language of "Responsibilities" #6 and #7 suggests that "the Bureau either perceives that it has a right to control the content of a prisoner's communications with an attorney or the courts, or that it is falsely attempting to give the prisoner this impression." It is not the intent of the Bureau of Prisons to "chill" an inmate's right of access to attorneys or courts. The Bureau of Prisons rule on correspondence (28 CFR Part 540) clearly states that the inmate has the right to send sealed correspondence to an attorney or the courts.

4. Section 541.13—Final § 541.13, "Prohibited acts and disciplinary severity scale", contains information previously in § 541.11(d). The first undesignated paragraph of interim § 541.11(d) now becomes final

§ 541.13(a)–(d). Section 541.13(a) includes a reference to Table 3 for identification of the prohibited acts within each category. Interim Table 1, which contained a discussion of each sanction, becomes final Table 4. Interim § 541.11(d)(1)–(4) becomes final § 541.13(a)(1)–(4). Final § 541.13(e) is new. This section authorizes a disciplinary committee to impose increased sanctions for repeated, frequent offenses according to guidelines presented in new Table 5.

The prohibited acts themselves have undergone minor revisions based on the Bureau's experience with its interim rule. The introductory statement to the "Greatest Category" of prohibited acts substitutes the phrase "recommendations as to an appropriate disposition" for "with findings and recommendations as appropriate". This revision recognizes that the UDC may not always be making a finding but may be referring the case to the IDC for disposition. The Bureau's review of prohibited act 202, "Possession or introduction of an unauthorized tool" indicates that the phrase "unauthorized tool" is too broad for inclusion in the "High Category". A primary concern is whether the unauthorized tool is considered a hazardous (for example, can be used in an escape attempt or as a weapon) or a non-hazardous tool. Accordingly, interim prohibited act 202 is replaced by two new prohibited acts, with one (#108) being in the greatest category and one (#331) being in the moderate category. Prohibited act 108 refers to possession or introduction of a hazardous tool; prohibited act 331 refers to possession or introduction of a non-hazardous tool.

Prohibited act 208, "Tampering with or blocking any lock device", is expanded to include keys within the scope of the act and to state that an inmate may not possess an unauthorized locking device. An inmate, in his administrative remedy filing appealing a decision of the disciplinary committee, stated that it was misleading to include marijuana and marijuana paraphernalia within the scope of prohibited act 210, "Possession, introduction, or use of any narcotics, narcotic paraphernalia, or drugs not prescribed for the individual by the medical staff". The inmate pointed out that marijuana is not considered a narcotic and requested his Incident Report be amended to show the substance involved. To prevent similar concerns in the future, final prohibited act 210 is reworded to specifically include marijuana. The interim phrase "narcotic paraphernalia" is also replaced by "or related paraphernalia". Because of their potentially adverse impact on institution security, discipline, and good order, prohibited act 301, "Stealing (theft)", is moved from the Moderate to High Category, becoming new prohibited act 219 and prohibited act 220, "Demonstrating, practicing, or using martial arts, boxing (except for use of a punching bag), wrestling, or other forms of physical encounter, or military exercises or drill", is added.

Prohibited act 499 is new and repeats the language of existing prohibited acts 199, 299, and 399. Each of these acts refer to conduct which disrupts or interferes with the security or orderly running of the institution. To better clarify their scope, the final rule now states that a 199, 299, 399, or 499 charge is to be used only when another charge in that specific category is not applicable. We do not agree with a comment that these prohibited acts are "catch all provisions" and that they are "so vague that they provide no real notice of the prohibited conduct to prisoners and permit arbitrary decision-making by staff". While these prohibited acts are broad in scope, their language clearly states that the conduct must be of the given severity level. Internal staff instructions further structure staff requirements in stating that the disciplinary committee, in its findings, must indicate a specific finding of the severity level of the conduct, and a comparison to an offense in that severity level which the appropriate committee finds most comparable. An inmate charged under prohibited act 199, 299, 399, or 499, who believes that the charges are inappropriate, may file a request for administrative remedy to appeal the decision of the disciplinary committee.

With respect to the sanctions listed in Table 3, Sanction B now includes a statement that an extra good time sanction may not be suspended. A commenter commends the Bureau of Prisons for placing limits on the length of disciplinary segregation and amount of good time subject to forfeiture and withholding but fears that arbitrary decision-making will occur without precise criteria. The commenter also states that the "cap" figures for good time forfeiture and withholding are much too high and that the provision for consecutive sentences and post-disciplinary administrative detention is of concern with respect to the length of stay in special housing status.

We do not believe it is practicable to establish criteria more precise than that which already exists. The IDC requires some flexibility to determine an appropriate sanction. At the same time, the committee's decision-making is not considered "arbitrary" because both the good time forfeiture/withholding and disciplinary segregation sanctions have established constraints. The constraints are determined by the specific category of prohibited act, with the disciplinary committee authorized to impose sanctions up to that limit. With respect to disciplinary segregation, the limits are 60, 30, and 15 days for the Greatest, High, and Moderate categories respectively. This is not unreasonable considering the prohibited acts to which they apply. In a related aspect, based on the need to ensure institution security, good order, and discipline, we consider the existing provisions on consecutive disciplinary segregation and post-disciplinary administrative detention status appropriate. As to the withholding provisions, the maximum amount of good time that may be withheld for a single month is 5–10 days, dependent on the inmate's sentence (18 U.S.C. 4161). The limitations on forfeiture of good time is also determined by an inmate's sentence and the severity of the prohibited act. In the greatest category, which includes prohibited acts such as escape, killing, setting a fire, etc., an inmate may forfeit 100% of his good time. In the high and moderate categories, the maximum amount of days that may be forfeited is 60 days and 30 days respectively. Considering the nature of the acts in these categories, these limits are not considered "much too high" or "extremely harsh".

A commenter on the prohibited acts commended the Bureau of Prisons for introducing the principle of proportionality in its disciplinary rules. The commenter objected, however, to the sanctions for "aiding, attempting, and planning" being the same as for committing the act, stating that this is much too harsh a result, that the criminal law does not treat these crimes as harshly as do these rules.

The disciplinary process is not intended to be either a judicial process or to have the wide gradations of offenses and punishments available to the judiciary. In fact, where an offense committed within the institution warrants criminal prosecution referral to appropriate law enforcement officials is made. The purpose of the disciplinary process is to help inmates live in a safe and orderly environment. Within this context, the impact on institution security and good order resulting from, for example, an inmate assault and an attempted assault is similar, and merits consideration for similar sanctions. Where warranted, the disciplinary

committee may impose a lesser, allowable sanction for "aiding, attempting, and planning" than the committee would otherwise have done for the actual commission of the prohibited act. Further, criminal statutes often do allow the same sanction for aiding, attempting, or planning as for the substantive offense.

In response to another comment, we do not believe that the prohibited acts require a finding of specific intent or "*mens rea*". While intent may be considered in determining an appropriate sanction, the conduct itself directly impacts on institution security, discipline, and good order and, absent a determination that the person is not responsible for his conduct, must be considered significant.

Another comment stated that some provisions of the rule are vague and lack a definition of terms, with others overbroad to the extent that "their application can readily interfere with First Amendment rights". The Bureau of Prisons considers, and our experience with the interim rule confirms, that the language and the meaning of the prohibited acts are clear. When an act is found to be unclear or needs further defining, the Bureau, as indicated with prohibited acts 208 and 210, will make the revisions necessary for clarification. An inmate who believes that he was unfairly charged with a prohibited act or that such act violates the inmate's First Amendment rights may appeal that issue and the decision of the disciplinary committee through the Administrative Remedy Procedure. First Amendment rights are curtailed by necessity in the prison setting. Those rights do not insulate security-threatening speech, such as statements encouraging group demonstrations, or providing false statements to staff.

Sanction B in Table 4 (Sanctions) now states that the sanction of termination or disallowance of extra good time may not be suspended. Sanction C in Table 4 is amended to recognize that the inmate also receives a UDC hearing, either at the sending or receiving institution, when a present or impending emergency requires an inmate's disciplinary transfer prior to an IDC hearing. A commenter states that providing an inmate a hearing after transfer is inherently unfair to the prisoner. While it will seldom be necessary to effect a disciplinary transfer prior to a hearing, it is necessary that the Bureau of Prisons have this option to preserve institution security and good order, and to protect the inmate and others. As stated in the rule, such transfer must have prior approval of the Regional Director. The inmate is also to receive the hearing, with all procedural requirements met, at the new institution as soon as practicable after arrival.

The reference in Sanctions B, D and F to § 541.11(e) now reads "See Table 6". In Sanction F, the clarifying phrase "total amount of" is added to indicate the limitations on withholding statutory good time. The final rule requires that the IDC specify at the time of the initial IDC hearing that good time may be withheld until the inmate elects to return to work. Within Sanction F, the extraneous phrase "if he prefers" is deleted.

Table 5, "Sanctions for repetition of prohibited acts within same category", is new. This section consist of a Table establishing sanctions for repetitive offenses (same code) occurring within a specified time period. This approach allows the Bureau of Prisons to retain a given prohibited act within its present category, while ensuring that frequent violators of that act are held accountable.

Table 6, "Sanctions by severity of prohibited act, with eligibility for restoration of forfeited and withheld statutory good time", contains information previously in interim § 541.11(e). While the chart is unchanged, two new areas are added. The first states that restoration will be approved at the time of initial eligibility only when the inmate has shown a period of time with improved good behavior. When an inmate's application for restoration is denied, the IDC shall notify the inmate of the reasons for denial. The IDC will also establish a new eligibility date, not to exceed six months from the date of denial, for the inmate to resubmit an application. The second addition states that an inmate with forfeited good time may be placed in a community treatment center only if the inmate is otherwise eligible and there exists a documented need for such placement. Approval of the Regional Office is required for this placement.

5. Section 541.14—Interim § 542.12 becomes final § 541.14. Based on the severity of prohibited acts in the greatest category, final § 541.14(a) states that these acts may not be informally resolved, but must be referred to the IDC for a final disposition. In response to comment, while staff have the discretion to determine the initial charge, this charge is reviewed first by the correctional supervisor and, if not informally resolved, by the UDC and/or IDC. If the inmate is charged with a prohibited act not reflected within the Incident Report, the Report is amended to show the proper charge. Contrary to the inference made by a public comment, staff preparing the Incident Report do not determine the sanction.

Final § 541.14(b) is amended to state that a person who was involved in the incident may not serve as the investigating officer. That portion of interim § 541.12(b) concerning the incident being the subject of a criminal prosecution becomes final § 541.14(b)(1), with the remainder of the rule, relating to the inmate receiving a copy of the Incident Report, becoming final § 541.14(b)(2). Final § 541.14(b)(2) deletes the interim rule language "or the pendency of certain criminal proceedings" as this ordinarily does not stop the inmate from receiving a copy of the Incident Report. The Bureau disagrees with a comment that suggests the final rule state that the inmate's silence may not be used to draw any inference of guilt. The U.S. Supreme Court, in *Baxter* v. *Palmigiano* 96 S. Ct. 1551, held that there was no constitutional violation in allowing an adverse inference to be drawn from the silence of an inmate who was advised that he was not required to testify at his disciplinary hearing. As indicated in the rule, however, the inmate may not be found to have committed the prohibited act based solely on that silence.

6. Section 541.15—Interim § 541.13 becomes final § 541.15. The extraneous phrase "(usually a unit discipline committee)" is deleted from the first paragraph of the final rule. For clarity, the first paragraph is amended to state that when an alleged violation of Bureau rules is serious and warrants consideration for other than minor sanctions, the UDC shall refer the charges to the IDC for further hearing. When this occurs, the UDC makes no finding on the alleged violation. The UDC must refer all greatest category charges to the IDC. In § 541.15(b), the final rule is amended to indicate that the inmate is entitled to an initial hearing ordinarily within two work days (excluding the day of notice) of the time that staff becomes aware of the inmate's involvement in the incident. The interim rule stated this hearing was to occur within 48 hours. The amended language gives a more definitive expectation of when this hearing will occur. A commenter on interim §§ 541.13(c) and 541.15(d), now final §§ 541.15(c) and 541.17(d), stated that when the inmate is not present at the hearing there should be some mechanism for informing the inmate as to what occurred at the hearing and giving the inmate the opportunity to respond. Final §§ 541.15(c) and 541.17(d) state that the inmate ordinarily is expected to attend

the hearing; however, whether the inmate attends, is excluded for security reasons, or waives the right to be present, that inmate receives a copy of the decision and disposition. A finding of the disciplinary committee (either UDC or IDC) is also reviewable under the Administrative Remedy Procedure.

Final § 541.15(f) is reworded to better describe the decision-making process. The final rule requires the disciplinary committee's decision to be supported by substantial evidence manifested in the record of the proceedings. The final rule authorizes the UDC to refer the case to the IDC for further hearing and allows the UDC to find that the inmate committed the prohibited act charged "and/or" a similar prohibited act reflected in the Incident Report. To establish a time frame, the final rule requires that the inmate receive a copy of the UDC decision and disposition by the close of business the next work day.

Final § 541.15(g) is new and requires the UDC to prepare a record of its proceedings. This section also states that a record of the hearing and supporting documents are kept in the inmate's file. Interim § 541.13(g)–(j) become final § 541.15(h)–(k). Final § 541.15(h) now includes a statement that a referral by the UDC to the IDC shall be without indication of findings as to commission of the alleged violation. For consistency with final § 541.15(f), the final rule inserts the conjunctive phrase "and/or" with respect to determining that the inmate committed the act charged and/or a similar prohibited act reflected in the Incident Report. Final § 541.15(i) now allows the inmate who waives the right to be present before the IDC to elect to have witnesses and/or a staff representative appear at the hearing in that inmate's behalf.

7. Section § 541.16—Interim § 541.14 becomes final § 541.16. Because of the renumbering of the final rule, references in final § 541.16(c) to §§ 541.13 and 541.18 are changed to §§ 541.15 and 541.20 respectively. A commenter to interim § 541.14(b), now final § 541.16(b), objects to a staff member who witnesses an incident sitting as a member of the IDC where virtually every staff member in the institution witnessed the incident in whole or in part. The commenter suggests that when this situation exists an outside Bureau official or a staff member on his day off should sit on the IDC. While it is seldom necessary to use this provision, its inclusion in the final rule is necessary both to allow the IDC hearing to be held as soon as practicable and because the procedural requirements of the discipline rule do not lend themselves to designating any Bureau employee to sit on the IDC.

8. Section 541.17—Interim § 541.15 becomes final § 541.17. Final § 541.17(b) is amended in several ways. The final rule adds a witness to the incident as a person who may not act as a staff representative. By adding the phrase, "in a particular case", the rule also clarifies the language allowing the Warden to exclude other staff from acting as staff representative when there is a potential conflict in roles. The final rule requires the Warden to "promptly" appoint a staff representative when an inmate who desires a staff representative is unable to obtain one. In a final amendment to subsection (b), the Warden is to appoint a staff representative to assist an inmate when it appears that the inmate is not able to properly make a presentation on his own behalf (for example, an illiterate inmate).

We disagree with a comment to subsection (c) that the witness should be permitted to provide information not only relevant to the charges but also relevant to the sanctions. A witness is expected to address what he knows in respect to the charges. Based on this testimony and an assessment of the information manifested in the record of the proceedings, it is the IDC's responsibility to determine the appropriate sanction. Other comments suggested that the term "reasonably available" needs further definition and that the accused should be permitted to directly question a person called to testify on an inmate's behalf. What constitutes "reasonably available", however, is best determined by the IDC chairman based on a consideration of the specific situation. In raising this point, the commenter asks, "What happens when a prisoner calls a witness and is willing to pay his way to testify?" Although a written statement from that witness is more likely, it is possible for the outside witness to testify when that person has information directly relevant to the charge(s). The final rule requires that the chairman document in the record of the hearing the reasons for declining to call a requested witness. With respect to not allowing the inmate to directly question witnesses, the Bureau considers this provision necessary to ensure institution security and good order.

To correctly reflect the intent of the section, interim § 541.15(d), now final § 541.17(d), substitutes the term "charges" for "escape charge". Final § 541.17(e) states that the IDC may postpone a hearing for good cause shown by the inmate or staff and documented in the record of the hearing. Final § 541.17(f) recognizes that the IDC may find that the inmate either committed the prohibited act charged "and/or" a similar prohibited act if reflected in the Incident Report. A second paragraph of this subsection describes Bureau of Prisons requirements with respect to the use of confidential informant information. This section requires that when a disciplinary committee decision is based on confidential informant information, the IDC or UDC shall document, ordinarily in the committee report, its finding as to the reliability of each confidential informant relied on and the factual basis for that finding. If inclusion of this information in the committee report might reveal the informant's identity, the required information may be provided in a separate report not available to the inmate. Implementing instructions to this rule require the decision that an inmate committed a prohibited act to be supported ordinarily by more than one reliable confidential source. The exception to this requirement is where the peculiar circumstances of the incident and knowledge possessed by the confidential informant convince the committee that the provided information must be reliable (for example, the statement of an assault victim in an unwitnessed assault may constitute sufficient evidence).

We do not believe it necessary that final § 541.17(f) include a commenter's suggestion that the committee may not rely upon evidence outside the record. The rule clearly requires the evidence to be manifested in the record of the proceedings.

Section 541.17(h) is new and requires that a record of the hearing and supporting documents be kept in the inmate central file. Interim § 541.15(h) becomes final § 541.17(i).

9. Section 541.18—Interim § 541.16 becomes final § 541.18. Based on the renumbering of sections, the interim rule's reference to § 541.11(d) becomes § 541.13 in the final rule.

10. Section 541.19—Interim § 541.17 becomes final § 541.19. The final rule allows the Warden, Regional Director, or General Counsel to send back with directions any disciplinary action of the UDC or IDC. These persons may not increase the sanctions imposed.

11. Section 541.20—Interim § 541.18 becomes final §541.20. Final § 541.20(a) is amended to recognize that the inmate may be placed in disciplinary segregation for a repeated offense in the low moderate category. The final rule, both in § 541.20 (a) and (d) deletes reference to "the control and

management of behavior" because this intent is included within the existing language addressing the need to regulate an inmate's behavior within acceptable limits. The final rule in both subsections now refers to "punishment and deterrence". An inmate is placed in disciplinary segregation because other available dispositions are determined inappropriate to achieve this purpose. Similarly, the question of whether this intent has been met is considered on those occasions when an inmate is considered for release from disciplinary segregation prior to completing the imposed disciplinary sanction. Interim § 541.18(b), now final § 541.20(b), is reworded but its intent is unchanged. A commenter to this section states that, "Prehearing detention in segregation by the terms of this provision will be more widely used." We disagree. The requirements for placing an inmate in a cell ordinarily set aside for disciplinary segregation, prior to a disciplinary hearing, are very stringent because three specific conditions, specified in the rule, must be met. The rule also requires that the temporary housing not exceed five days, with approval of the Warden necessary prior to placement. While it is expected, and our experience confirms, that this practice will seldom be necessary, the need to ensure institution security and good order, as well as to protect the inmate or others, requires that this option be available. We do not consider such a placement violative of an inmate's liberty interest.

The Bureau's revised procedure on placement in administrative detention responds to a comment that a hearing be held on an inmate's pre-hearing detention whenever a person is held more than 24 hours. The final rule requires the correctional supervisor review, prior to an inmate's placement in administrative detention and regardless of the reason for placement, the available information to determine whether the placement is warranted. A record review of the placement is conducted within three work days of the placement, with a hearing and formal review held after seven days. In response to public comment, it is not necessary to further define "adjustment to surroundings" or "threat" posed by the inmate. The identifying language refers to information that will be presented in a psychiatric or psychological assessment whenever the inmate's stay in disciplinary segregation extends beyond 30 days. The addressing of these terms is best left with the mental health professional who prepares the assessment. To a comment that the rule needs to provide concise standards of review, thereby allowing both the inmate and staff to know what conduct or attitude is expected to obtain an earlier release, interim § 541.18(d), now final § 541.20(d), identifies the determination that must be made to release an inmate from disciplinary segregation earlier than the sanction imposed. Because sanctions are imposed for specific periods of time based on a finding that the inmate committed a specific prohibited act, more concise standards are not considered appropriate.

12. Section 541.21—Interim § 541.19 becomes final § 541.21. A commenter to interim § 541.19 (c)(1) and (c)(3), now final § 541.21 (c)(1) and (c)(3), said there was no criteria provided for the use of strip cells or deprivation of footwear. The final rule clearly states that strip cells are not a part of the segregation unit, and that any strip cells that are utilized must be a part of the medical facility, under the supervision and control of the medical staff. The final rule also prohibits modification of the living conditions in disciplinary segregation for the purpose of reinforcing acceptable behavior. These provisions clearly show that the final rule on Inmate Discipline requires no further expansion of the strip cell information. As for footwear, the rule does not prohibit this, but rather allows the Warden in his discretion to provide cloth or paper slippers.

Several amendments, however, have been made to this section. Final § 541.21(c)(3) now requires that inmates in special housing status receive, to the extent practicable, the same opportunity for the issue and exchange of clothing, bedding, and linen, and for laundry as inmates in the general population. Exceptions are to be documented. Final § 541.21(c)(4) is reworded to better express the intent of the section; i.e., that the inmate receive nutritionally adequate meals, ordinarily from the menu of the day for the institution. Final § 541.21(c)(5) states that inmates in special housing, where practicable, are to receive barbering and hair care services, with exceptions to this procedure permitted only when found necessary by the Warden or designee. While a commenter suggests that an inmate be afforded shower and shaves at least once a day, institutional resources do not always allow for this. The rule gives an inmate the opportunity to shower and shave at least three times a week; where resources permit, the inmates will be allowed to shower and shave more frequently. As suggested in a comment, final § 541.21(c)(6) substitutes "five" for "four" in referring to the hours of exercise each week and how these are to be provided. Internal staff instructions incorporate public comment that outside exercise should be permitted, weather permitting. The reference to interim § 541.15 is amended in the final rule to read § 541.17. While a commenter states that an inmate should be deprived of exercise only when it would pose a threat to institution staff, the Bureau considers its existing rule language more appropriate. Any concern that staff may unfairly impose this restriction on an inmate's opportunity to exercise should be sufficiently addressed by the requirement that the inmate receive a hearing before the IDC prior to exercise periods (not to exceed one week) being withheld.

Final § 541.21(c)(8) substitutes the term "shall" for "may" in requiring that a reasonable amount of reading material be provided. The word "books" is substituted for "volume". A new sentence is added recognizing the inmate's opportunity to possess religious scriptures of the inmate's faith. While a commenter states that the limit on reading materials to five volumes (now books) seems arbitrary and unnecessary, such a limitation is appropriate for reasons of security, fire safety, and housekeeping. The rule does not prohibit an inmate from finishing one book and replacing it with another. Final § 541.21(c)(9) states that the Warden's designee is ordinarily a correctional supervisor. The final rule also requires that members of the program staff visit inmates who are on special housing status upon request. Finally, § 541.21(c)(10) now includes a reference to telephone privileges.

13. Section 541.22—Interim § 541.20 becomes final § 541.22. Final § 541.22(a) limits the authority to place an inmate in administrative detention to correctional supervisors. The final rule requires, prior to the inmate's placement in administrative detention, that the correctional supervisor review the available information to determine whether such a placement is warranted. The reference to § 541.21 in interim subsection (a)(5) becomes § 541.23 in the final rule. Final § 541.22(a)(6) requires the IDC to advise the inmate of both the decision and the reasons for transferring the inmate from disciplinary segregation to administrative detention status. Interim § 541.20(a)(6)(iii) becomes final § 541.22(a)(6)(ii). The reference in the interim section to paragraph (a) becomes paragraph (i) in the final rule. Interim § 541.20(a)(6)(ii) is amended and becomes final § 541.22(a)(6)(iii). The final rule substitutes the phrase "will attempt" for "is expected". Deleted is

the language authorizing two 30-day extensions of this placement. Because the security needs required for an inmate in a Security Level 6 institution may not be available outside of post-disciplinary detention, the Warden may approve an extension of this placement upon a written determination that it is not practicable to release the inmate to general population or to effect a transfer to a more suitable institution. Final § 541.22(a)(6)(iv) is amended by adding the phrases "in a Security Level 6 institution" and "90-day". The final rule requires that an inmate not transferred from post-disciplinary detention within the 90-day period will have his status regularly reviewed by the appropriate Regional Director and the Assistant Director, Correctional Programs Division. The reference in the interim rule to "paragraph (b)" becomes "paragraph (iii)" in the final rule. A commenter objects to the lack of criteria for allowing an inmate to be transferred from disciplinary segregation to administrative detention. It is not considered practicable to establish criteria more specific than serious threat to life, property, self, staff, other inmates or to the security or orderly running of the institution. The specific reasons for placement depend on the individual situation with § 541.22(a)(6) requiring that the inmate be notified of the reasons. It should also be noted that placement in administrative detention is not considered punitive. To the extent practicable, an inmate in administrative detention receives the same opportunities afforded inmates in the general population.

Final § 541.22(b), formerly interim § 541.20(b), now states that when an inmate is place in administrative detention status as a direct result of the inmate's holdover status (i.e., en route to another institution), no memorandum is necessary. We believe the existing rule adequately responds to a comment that the memorandum given the inmate detail the facts upon which the detention is based. The memorandum is required to contain the reasons for placement. To a comment that the inmate should always receive a copy of this memorandum, this does occur except in those few instances where institutional security would be compromised.

Interim § 541.20(c) is expanded in final § 541.22(c). The contents of the interim rule become subsection (c)(1) in the final rule. The final rule requires a record review within three work days of the inmate's placement in administrative detention. This review is to assess the merits of the inmate's continued placement in administrative detention. The reference to § 541.21 in the interim rule becomes § 541.23 in the final rule. The final rule states that an inmate's placement in administrative detention may be extended for exceptional circumstances, ordinarily related to security or a complex investigation. Section 541.22(c) (2)–(3) is new. Subsection (c)(2) requires the Warden to designate appropriate staff to meet weekly with an inmate whose placement in administrative detention is a direct result of the inmate's "holdover" status. Staff are also to conduct a weekly record review of this type case. Subsection (c)(3) addresses the inmate in protection status. The final rule requires that an inmate in administrative detention for protection reasons, but not at the inmate's request, should have his status reviewed within two work days of this placement to determine if continued protective custody is necessary.

A commenter suggests that the Bureau clarify its review of the basis for holding an inmate in administrative detention, that neither inmates nor staff have an idea of what is required for holding prisoners in this status. The terms used (threat, adjustment to surroundings, etc.) for assessing an inmate in administrative detention are necessarily broad, with the reasons for placement, the periodic psychiatric or psychological assessment, helping to give the required definition. As amended, the final rule requires that the psychiatric or psychological assessment address the inmate's adjustment to surroundings and the threat the inmate poses to self, staff and other inmates. Any questions the inmate may have can be discussed with the inmate at each formal review, conducted after the first seven days of placement and every 30 days thereafter. These factors, plus the time constraints given in § 541.22 on an inmate's length of stay in administrative detention (ordinarily not to exceed 90 days) are considered responsive to the commenter's concerns.

Final § 541.22(d) amends the interim's rule reference to § 541.19 to read § 541.21(c). The final rule now includes a statement that the inmate in administrative detention is to be provided the opportunity for participation in various programs, including education, library services, etc. The inmate in administrative detention is also permitted to have a radio equipped with ear plugs. The final rule also references telephone privileges provided to the inmate in administrative detention. A final revision states that the Warden may restrict for reasons of security, fire safety, or housekeeping the amount of personal property that an inmate in administrative detention may retain.

A commenter states that the phrase in subsection (d) "if consistent with available resources" is not a legitimate basis for determining whether the inmate receives the same conditions and treatment afforded inmates in general population. The use of this phrase recognizes the constraints which may exist. For example, a protection case who wishes to participate in a specific college level program may be restricted from participation because the inmate cannot attend the program within the general population, because of his personal safety. Further, availability of resources has been recognized as a necessary and even determinative factor in correctional decision-making.

14. Section 541.23—Interim § 541.21 becomes final § 541.23. The reference in the interim rule to § 541.15 becomes § 541.17 in final § 541.23(b). For clarity, § 541.23(b) adds the phase "and advance advisement of inmate rights at the hearing". A commenter, while favoring the 90-day limit on confinement of protection cases, believes that this provision will have little meaning because extensions are obtained readily and there are no criteria or procedures to guide prisoners and staff on how to obtain release. While the final rule allows for an extension beyond 90 days, it clearly establishes an expectation that this will not occur without an attempt to reassign the inmate. Any extension beyond 90 days requires written documentation of the reasons. The rule further requires that where it appears that the inmate cannot be placed in the general population of the inmate's present institution, staff are to refer the case to the Regional Director who, after review of the forwarded material, may order the transfer of a protection case. The referral to the Regional Director is responsive to the commenter's suggestion that safe alternative placements be found. With a broader perspective, the Regional Director is able to consider additional placement options. Even with this provision, however, it is recognized that the release of an inmate from protective custody status will depend on many factors, including the reasons for protection and the resources available.

A commenter to this section suggests that a specified area be set aside and utilized solely to house inmates in protective custody. While it is not always possible for the Bureau to set aside a specific area for protective custody cases, it is expected that staff

will take the additional precautions necessary to ensure the safety of inmates in protective custody status.

15. Interim § 541.22—Interim § 541.22, "Disciplinary procedures for Federal Community Treatment Centers", is deleted from the final rule because the Bureau of Prisons now uses only contract community treatment centers.

List of Subjects in 28 CFR Part 541

Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(q), Chapter V of 28 CFR is amended as follows: In Subchapter C, Part 541, Subpart B is revised.

Dated: August 6, 1982.

Norman A. Carlson,

Director, Bureau of Prisons.

In Subchapter C, Part 541, Subpart B is revised as follows.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS

* * * * *

Subpart B—Inmate Discipline and Special Housing Units

Sec.

541.10 Purpose and scope.
541.11 Notice to inmate of Bureau of Prisons rules.
541.12 Inmate's rights and responsibilities.
541.13 Prohibited acts and disciplinary severity scale.
541.14 Incident report and investigation.
541.15 Initial hearing.
541.16 Establishment and functioning of Institution Discipline Committee.
541.17 Procedures in Institution Discipline Committee hearings.
541.18 Dispositions of the Institution Discipline Committee.
541.19 Appeals from Unit Discipline Committee or Institution Discipline Committee actions.
541.20 Justification for placement in disciplinary segregation and review of inmates in disciplinary segregation.
541.21 Conditions of disciplinary segregation.
541.22 Administrative detention.
541.23 Protection cases.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.99.

* * * * *

Subpart B—Inmate Discipline and Special Housing Units

§ 541.10 Purpose and scope.

(a) So that inmates may live in a safe and orderly environment, if it necessary for institution authorities to impose discipline on those inmates whose behavior is not in compliance with Bureau of Prisons rules.

(b) The following general principles apply in every disciplinary action taken:

(1) Only institution staff may take disciplinary action.

(2) Staff shall take disciplinary action at such times and to the degree necessary to regulate an inmate's behavior within Bureau rules and institution guidelines and to promote a safe and orderly institution environment.

(3) Staff shall control inmate behavior in a completely impartial and consistent manner.

(4) Disciplinary action may not be capricious or retaliatory.

(5) Staff may not impose or allow imposition of corporal punishment of any kind.

(6) If it appears at any stage of the disciplinary process that an inmate is mentally ill, staff shall refer the inmate to a mental health professional for determination of whether the inmate is responsible for his conduct or is incompetent. Staff may take no disciplinary action against an inmate whom mental health staff determines to be incompetent or not responsible for his conduct.

(i) A person is not responsible for his conduct if, at the time of the conduct, the person lacks substantial capacity to appreciate the wrongfulness of the conduct or to conform the conduct to the rules of the Bureau of Prisons, because of a mental disease or defect. When a person is determined not responsible for his conduct, the Incident Report is to show as a finding that the person did not commit the prohibited act because that person was found not to be mentally responsible for his conduct.

(ii) A person is incompetent if that person lacks the ability to understand the nature of the disciplinary proceedings, or to assist in his defense at the proceedings. When a person is determined incompetent, the disciplinary proceedings shall be postponed until such time as the inmate is able to understand the nature of the disciplinary proceedings and to assist in his defense at those proceedings. If competency is not restored within a reasonable period of time, the Incident Report is to show as a finding that the inmate is incompetent to assist in his defense at the disciplinary proceedings.

§ 541.11 Notice to inmate of Bureau of Prisons rules.

Staff shall advise each inmate in writing promptly after arrival at an institution of:

(a) The types of disciplinary action which may be taken by institution staff;

(b) The disciplinary system within the institution and the time limits thereof (see Tables 1 and 2);

(c) The inmate's rights and responsibilities (see §541.12);

(d) Prohibited acts and disciplinary severity scale (see §541.13, Tables 3, 4, and 5); and

(e) Sanctions by severity of prohibited act, with eligibility for restoration of forfeited and withheld statutory good time. (see Table 6).

BILLING CODE 4410-05-M

SUMMARY OF DISCIPLINARY SYSTEM

TABLE 1

Procedures	Dispositions
1. Incident involving possible commission of prohibited act.	→ Observing staff may resolve informally or drop the charges.
2. Staff prepares Incident Report and forwards it to correctional supervisor.	→ Correctional supervisor may resolve informally or drop charges.
3. Appointment of investigator who conducts investigation and forwards material to Unit Discipline Committee.	
4. Initial hearing before Unit Discipline Committee.	→ Unit Discipline Committee may drop or resolve informally any High, Moderate, or Low Moderate charge, impose allowable sanctions or refer to Institution Discipline Committee.
5. Hearing before Institution Discipline Committee.	→ Institution Discipline Committee may impose allowable sanctions, or drop the charges.
6. Appeals through Administrative Remedy Procedure.	→ The Warden, Regional Director, or General Counsel may approve, modify, send back with directions, or reverse, but may not increase any disciplinary action taken.

BILLING CODE 4410-05-C

TIME LIMITS IN DISCIPLINARY PROCESS

TABLE 2

1. Staff becomes aware of inmate's involvement in incident.

maximum of 24 hours

2. Staff gives inmate notice of charges by delivering Incident Report.

minimum of 24 hours (unless waived)

4. Institution Discipline Committee hearing.

maximum of 2 work days (excluding day of notice, weekends, and holidays.)

3. Initial hearing.

NOTE: These time limits are subject to exceptions as provided in the rules.

Staff may suspend disciplinary proceedings for a period not to exceed two weeks while informal resolution is attempted. If informal resolution is unsuccessful, staff may reinstitute disciplinary proceedings at the same stage at which suspended. The time requirements then begin running again, at the same point at which they were suspended.

§ 541.12 Inmate's rights and responsibilities.

Rights	Responsibilities
1. You have the right to expect that as a human being you will be treated respectfully, impartially, and fairly by all personnel.	1. You have the responsibility to treat others, both employees and inmates, in the same manner.
2. You have the right to be informed of the rules, procedures, and schedules concerning the operation of the institution.	2. You have the responsibility to know and abide by them.
3. You have the right to freedom of religious affiliation, and voluntary religious worship.	3. You have the responsibility to recognize and respect the rights of others in this regard.
4. You have the right to health care, which includes nutritious meals, proper bedding and clothing, and a laundry schedule for cleanliness of the same, an opportunity to shower regularly, proper ventilation for warmth and fresh air, a regular exercise period, toilet articles and medical and dental treatment.	4. It is your responsibility not to waste food, to follow the laundry and shower schedule, to maintain neat and clean living quarters, to keep your area free of contraband, and to seek medical and dental care as you may need it.
5. You have the right to visit and correspond with family members, and friends, and correspond with members of the news media in keeping with Bureau rules and institution guidelines.	5. It is your responsibility to conduct yourself properly during visits, not to accept or pass contraband, and not to violate the law or Bureau rules or institution guidelines through your correspondence.
6. You have the right to unrestricted and confidential access to the courts by correspondence (on matters such as the legality of your conviction, civil matters, pending criminal cases, and conditions of your imprisonment).	6. You have the responsibility to present honestly and fairly your petitions, questions, and problems to the court.
7. You have the right to legal counsel from an attorney of your choice by interviews and correspondence.	7. It is your responsibility to use the services of an attorney honestly and fairly.
8. You have the right to participate in the use of law library reference materials to assist you in resolving legal problems. You also have the right to receive help when it is available through a legal assistance program.	8. It is your responsibility to use these resources in keeping with the procedures and schedule prescribed and to respect the rights of other inmates to the use of the materials and assistance.
9. You have the right to a wide range of reading material for educational purposes and for your own enjoyment. These materials may include magazines and newspapers sent from the community, with certain restrictions.	9. It is your responsibility to seek and utilize such materials for your personal benefit, without depriving others of their equal rights to the use of this material.
10. You have the right to participate in education, vocational training and employment as far as resources are available, and in keeping with your interests, needs, and abilities.	10. You have the responsibility to take advantage of activities which may help you live a successful and law-abiding life within the institution and in the community. You will be expected to abide by the regulations governing the use of such activities.

§ 541.13 Prohibited acts and disciplinary severity scale.

(a) There are four categories of prohibited acts—Greatest, High, Moderate, and Low Moderate (see Table 3 for identification of the prohibited acts within each category). Specific sanctions are authorized for each category (see Table 4 for a discussion of each sanction). Imposition of a sanction requires that the inmate first is found to have committed a prohibited act.

(1) Greatest category offenses: The Institution Discipline Committee shall impose and execute one or more of sanctions A through E. The Committee may also suspend one or more additional sanctions A through F. The Committee may impose and execute sanction F only in addition to execution of one or more of sanctions A through E.

(2) High category offenses: The appropriate committee shall impose and execute one or more of sanctions A through M. They may also suspend one or more additional sanctions A through M.

(3) Moderate category offenses: The appropriate committee shall impose at least one sanction A through N, but may suspend any sanction or sanctions imposed.

(4) Low moderate category offenses: The appropriate committee shall impose at least one sanction E through P, but may suspend any sanction or sanctions imposed.

(b) *Aiding* another person to commit any of these offenses, *attempting* to commit any of these offenses, and *making plans* to commit any of these offenses, in all categories of severity, *shall be considered the same as a commission of the offense itself.* In these cases, the letter "A" is combined with the offense code. For example, planning an escape would be considered as Escape and coded 102A. Likewise, attempting the adulteration of any food or drink would be coded 209A.

(c) Suspensions of any sanction cannot exceed six months. Revocation and execution of a suspended sanction requires that the inmate first is found to have committed any subsequent prohibited act. Only the Institution Discipline Committee (IDC) may execute, suspend, or revoke and execute suspension of sanctions A through F. The Institution Discipline Committee or Unit Discipline Committee (UDC) may execute, suspend, or revoke and execute suspensions of sanctions G through P. Revocations and execution of suspensions may be made only at the level (IDC or UDC) which originally imposed the sanction.

(d) If the Unit Discipline Committee has previously imposed a suspended sanction and subsequently refers a case to the Institution Discipline Committee, the referral shall include an advisement to the IDC of any intent to revoke that suspension if the IDC finds that the prohibited act was committed. If the Institution Discipline Committee then finds that the prohibited act was committed, they shall so advise the Unit Discipline Committee who may then revoke the previous suspension.

(e) A discipline committee may impose increased sanctions for repeated, frequent offenses according to the guidelines presented in Table 5.

TABLE 3.—PROHIBITED ACTS AND DISCIPLINARY SEVERITY SCALE GREATEST CATEGORY

The UDC shall refer all Greatest Severity Prohibited Acts to the IDC with recommendation as to an appropriate disposition.

Code	Prohibited acts	Sanctions
100	Killing	A. Recommend parole date rescission or retardation. B. Forfeit earned statutory good time (up to 100%) and/or terminate or disallow extra good time (an extra good time sanction may not be suspended). C. Disciplinary transfer (recommend). D. Disciplinary segregation (up to 60 days). E. Make monetary restitution. F. Withhold statutory good time. (NOTE.—Can be in addition to A through E—cannot be the only sanction executed.)
101	Assaulting any person (includes sexual assault)	
102	Escape from escort; escape from a secure institution (Security Level 2 through 6); or escape from a Security Level 1 institution *with* violence.	
103	Setting a fire (charged with this act in this category only when found to pose a threat to life or a threat of serious bodily harm or in furtherance of a prohibited act of Greatest Severity, e.g., in furtherance of a riot or escape; otherwise the charge is properly classified Code 218, or 329).	
104	Possession or introduction of a gun, firearm, weapon, sharpened instrument, knife, dangerous chemical, explosive or any ammunition.	
105	Rioting	
106	Encouraging others to riot	
107	Taking hostage(s)	

TABLE 3.—PROHIBITED ACTS AND DISCIPLINARY SEVERITY SCALE GREATEST CATEGORY—Continued

The UDC shall refer all Greatest Severity Prohibited Acts to the IDC with recommendation as to an appropriate disposition.

Code	Prohibited acts	Sanctions
108	Possession or introduction of a hazardous tool (Tools most likely to be used in an escape or escape attempt or to manufacture or serve as weapons capable of doing serious bodily harm to others; or those hazardous to institutional security or personal safety; e.g., hack-saw blade).	
199	Conduct which disrupts or interferes with the security or orderly running of the institution (*Conduct must be of the Greatest Severity nature.* This charge is to be used only when another charge of greatest severity is not applicable).	
200	Escape from unescorted Community Programs and activities and Open Institutions (Security Level 1) and from outside secure institutions) *without* violence.	A. Recommend parole date rescission or retardation. B. Forfeit earned statutory good time up to 50% or up to 60 days, whichever is less, and/or terminate or disallow extra good time (an extra good time sanction may not be suspended). C. Disciplinary transfer (recommend). D. Disciplinary segregation (up to 30 days). E. Make monetary restitution. F. Withhold statutory good time. G. Loss of privileges: commissary, movies, recreation, etc. H. Change housing (quarters). I. Remove from program and/or group activity. J. Loss of job. K. Impound inmate's personal property. L. Confiscate contraband. M. Restrict to quarters.
201	Fighting with another person	
202	(Not to be used)	
203	Threatening another with bodily harm or any other offense	
204	Extortion, blackmail, protection: Demanding or receiving money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing.	
205	Engaging in sexual acts	
206	Making sexual proposals or threats to another	
207	Wearing a disguise or a mask	
208	Possession of any unauthorized locking device, or tampering with or blocking any lock device (includes keys).	
209	Adulteration of any food or drink	
210	Possession, introduction, or use of any narcotics, marijuana, drugs, or related paraphernalia not prescribed for the individual by the medical staff.	
211	Possessing any officer's or staff clothing	
212	Engaging in, or encouraging a group demonstration	Sanctions A–M.
213	Encouraging others to refuse to work, or to participate in a work stoppage	
214	Refusing to provide a urine sample or to take part in other drug-abuse testing	
215	Introduction of alcohol into BOP facility	
216	Giving or offering an official or staff member a bribe, or anything of value	
217	Giving money to, or receiving money from, any person for purposes of introducing contraband or for any other illegal or prohibited purposes.	
218	Destroying, altering, or damaging government property, or the property of another person, having a value in excess of $100.00.	
219	Stealing (theft)	
220	Demonstrating, practicing, or using martial arts, boxing (except for use of a punching bag), wrestling, or other forms of physical encounter, or military exercises or drill.	
299	Conduct which disrupts or interferes with the security or orderly running of the institution (*Conduct must be of the High Severity nature.* This charge is to be used only when another charge of high severity is not applicable).	
300	Indecent exposure	A. Recommend parole date rescission or retardation. B. Forfeit earned statutory good time up to 25% or up to 30 days, whichever is less, and/or terminate or disallow extra good time (an extra good time sanction may not be suspended). C. Disciplinary transfer (recommend). D. Disciplinary segregation (up to 15 days). E. Make monetary restitution. F. Withhold statutory good time. G. Loss of privileges: commissary, movies, recreation, etc. H. Change housing (quarters). I. Remove from program and/or group activity. J. Loss of job. K. Impound inmate's personal property. L. Confiscate contraband. M. Restrict to quarters. N. Extra duty.
301	(Not to be used)	
302	Misuse of authorized medication	
303	Possession of money or currency, unless specifically authorized	
304	Loaning of property or anything of value for profit or increased return	
305	Possession of anything not authorized for retention or receipt by the inmate, and not issued to him through regular channels.	
306	Refusing to work, or to accept a program assignment	
307	Refusing to obey an order of any staff member (May be categorized and charged in terms of greater severity, according to the nature of the order being disobeyed; e.g., failure to obey an order which furthers a riot would be charged as 105, Riotings; refusing to obey an order which furthers a fight would be charged as 201, Fighting; refusing to provide a urine sample when ordered would be charged at Code 214).	
308	Violating a condition of a furlough	
309	Violating a condition of a community program	
310	Unexcused absence from work or any assignment	
311	Failing to perform work as instructed by the supervisor	
312	Insolence towards a staff member	
313	Lying or providing false statement to a staff member	
314	Counterfeiting, forging or unauthorized reproduction of any document, article of identification, money, security, or official paper. (May be categorized in terms of greater severity according to the nature of the item being reproduced; e.g., counterfeiting release papers to effect escape, Code 102 or Code 200).	Sanctions A–N.
315	Participating in an unauthorized meeting or gathering	
316	Being in an unauthorized area	

TABLE 3.—PROHIBITED ACTS AND DISCIPLINARY SEVERITY SCALE GREATEST CATEGORY—Continued

The UDC shall refer all Greatest Severity Prohibited Acts to the IDC with recommendation as to an appropriate disposition.

Code	Prohibited acts	Sanctions
317	Failure to follow safety or sanitation regulations	
318	Using any equipment or machinery which is not specifically authorized	
319	Using any equipment or machinery contrary to instructions or posted safety standards	
320	Failing to stand count	
321	Interfering with the taking of count	
322	Making, possessing, or using intoxicants	
323	Refusing to breathe into a breathalyzer or take part in other alcohol abuse testing	
324	Gambling	
325	Preparing or conducting a gambling pool	
326	Possession of gambling paraphernalia	
327	Unauthorized contacts with the public	
328	Giving money or anything of value to, or accepting money or anything of value from: another inmate, or any other person without staff authorization.	
329	Destroying, altering, or damaging government property, or the property of another person, having a value of $100.00 or less.	Sanctions A–N.
330	Being unsanitary or untidy; failing to keep one's person and one's quarters in accordance with posted standards.	
331	Possession or introduction of a non-hazardous tool (Tool not likely to be used in an escape or escape attempt, or to be manufactured or to serve as a weapon capable of doing serious bodily harm to others, or not hazardous to institutional security or personal safety).	
399	Conduct which disrupts or interferes with the security or orderly running of the institution (*Conduct must be of the Moderate Severity nature*). This charge is to be used only when another charge of moderate severity is not applicable.	
400	Possession of property belonging to another person	E. Make monetary restitution. F. Withhold statutory good time. G. Loss of privileges: commissary, movies, recreation, etc. H. Change housing (quarters). I. Remove from program and/or group activity. J. Loss of job. K. Impound inmate's personal property. L. Confiscate contraband. M. Restrict to quarters. N. Extra duty. O. Reprimand. P. Warning.
401	Possessing unauthorized clothing	
402	Malingering, feigning illness	
403	Smoking where prohibited	
404	Using abusive or obscene language	
405	Tattooing or self-mutilation	
406	Unauthorized use of mail or telephone (Restriction, or loss for a specific period of time, of these privileges may often be an appropriate sanction G).	
407	Conduct with a visitor in violation of Bureau regulations (Restriction, or loss for a specific period of time, of these privileges may often be an appropriate sanction G).	
408	Conducting a business	
499	Conduct which disrupts or interferes with the security or orderly running of the institution (*Conduct must be of the Low Moderate Severity nature*. This charge is to be used only when another charge of low moderate severity is not applicable).	

TABLE 4.—SANCTIONS

1. *Sanctions of the Institution Discipline Committee:* (upon finding the inmate committed the prohibited act)

A. *Recommend parole date rescission or retardation.* The IDC may make recommendations to the U.S. Parole Commission for retardation or rescission of parole grants. This may require holding fact-finding hearings upon request of or for the use of the Commission.

B. *Forfeit earned statutory good time and/or terminate or disallow extra good time.* The statutory good time available for forfeiture is limited to an amount computed by multiplying the number of months served at the time of the offense for which forfeiture action is taken, by the applicable monthly rate specified in 18 USC, Section 4161 (less any previous forfeiture or withholding outstanding). Disallowance of extra good time is limited to the extra good time for the calendar month in which the violation occurs. It may not be withheld or restored. The sanction of termination or disallowance of extra good time may not be suspended. Authority to restore forfeited statutory good time delegated to *only* the Institution Discipline Committee of each institution. Limitations on this sanction and eligibility for restoration are based on the severity scale. (See Table 6)

C. *Recommend disciplinary transfer.* The IDC may recommend that an inmate be transferred to another institution for disciplinary reasons.

TABLE 4.—SANCTIONS—Continued

Where a present or impending emergency requires immediate action, the Warden may recommend for approval of the receiving Regional Director the transfer of an inmate prior to either a UDC or IDC hearing. Transfers for disciplinary reasons prior to a hearing before the UDC or IDC may be used only in emergency situations and only with approval of the receiving Regional Director. When an inmate is transferred under these circumstances, the sending institution shall forward copies of incident reports and other relevant materials with completed investigation to the receiving institution's Institution Discipline Committee. The inmate shall receive a hearing at the receiving institution as soon as practicable under the circumstances to consider the factual basis of the charge of misconduct and the reasons for the emergency transfer. All procedural requirements applicable to UDC and IDC hearings contained in this rule are appropriate, except that written statements of unavailable witnesses are liberally accepted instead of live testimony.

D. *Disciplinary segregation.* The IDC may direct that an inmate be placed or retained in disciplinary segregation pursuant to guidelines contained in this rule. Consecutive disciplinary segregation sanctions can be imposed and executed for inmates charged with and found to have committed offenses that are part of different "episodes"

TABLE 4.—SANCTIONS—Continued

only. For example, if an inmate was in an unauthorized area and set a fire, the inmate could be charged with both offenses, but if found to have committed the prohibited act, the individual would only be able to receive up to 60 days in disciplinary segregation, which is the maximum segregation sanction for setting a fire. However, if the inmate was in an unauthorized area and set a fire and later, on the way to administrative detention, struck an officer, the inmate could be charged with assaulting any person and, combined with the first two charges, could receive a maximum of 120 days in disciplinary segregation. Similarly, an inmate may be serving a 60-day sanction in disciplinary segregation and commit a High Severity Prohibited Act, whereupon the person can be given an additional, consecutive 30 days by the IDC. Specific limits on time in disciplinary segregation are based on the severity scale. (See Table 6).

E. *Make monetary restitution.* The IDC may direct that an inmate reimburse the U.S. Treasury for any damages to U.S. Government property that the individual is determined to have caused or contributed to.

F. *Withholding statutory good time.* The IDC may direct that an inmate's good time be withheld. Withholding of good time should not be applied as a universal punishment to all persons in disciplinary segregation status. Withholding is limited to the total amount of good time creditable for the single month during which the violation occurs.

TABLE 4.—SANCTIONS—Continued

Some offenses, such as refusal to work at an assignment, may be recurring, thereby permitting, when ordered by the Institution Discipline Committee, consecutive withholding actions. When this is the intent, the IDC shall specify at the time of the initial IDC hearing that good time may be withheld until the inmate elects to return to work. In addition, the Committee shall review, near the beginning of the month or at the 30-day review, the offense with the inmate. For an on-going offense, staff need not prepare a new Incident Report or conduct an investigation or initial hearing. The Committee shall provide the inmate an opportunity to appear in person and to present a statement orally or in writing. The IDC shall document its action on, or by an attachment to the initial IDC report. If further withholding is ordered, the Committee shall advise the inmate of the inmate's right to appeal through the Administrative Remedy Procedure (Part 542).

Only the Institution Discipline Committee may restore withheld statutory good time. Restoration eligibility is based on the severity scale. (See Table 6)

TABLE 4.—SANCTIONS—Continued

2. *Sanctions of the Institution Discipline Committee/Unit Discipline Committee:* (upon finding the inmate committed the prohibited act)

G. *Loss of privileges: commissary, movies, recreation, etc.* The IDC or UDC may direct that an inmate forego specific privileges for a specified period of time. Ordinarily, loss of privileges is used as a sanction in response to an abuse of that privilege; e.g., loss of telephone privileges for a specified period of time for an abuse of the telephone privilege. However, loss of leisure privileges, such as movies, television, and recreation, may be appropriate sanctions for misconduct which is not related to the privilege.

H. *Change housing (quarters).* The IDC or UDC may direct that an inmate be removed from current housing and placed in other housing.

I. *Remove from program and/or group activity.* The IDC or UDC may direct that an inmate forego participating in any program or group activity for a specified period of time.

TABLE 4.—SANCTIONS—Continued

J. *Loss of job.* The IDC or UDC may direct that an inmate be removed from present job and/or be assigned to another job.

K. *Impound inmate's personal property.* The IDC or UDC may direct that an inmate's personal property be stored in the institution (when relevant to offense) for a specified period of time.

L. *Confiscate contraband.* The IDC or UDC may direct that any contraband in the possession of an inmate be confiscated and disposed of appropriately.

M. *Restrict quarters.* The IDC or UDC may direct that an inmate be confined to quarters or in its immediate area for a specified period of time.

N. *Extra duty.* The IDC or UDC may direct that an inmate perform tasks other than those performed during regularly assigned institutional job.

O. *Reprimand.* The IDC or UDC may reprimand an inmate either verbally or in writing.

P. *Warning.* The IDC or UDC may verbally warn an inmate regarding committing prohibited act(s).

TABLE 5.—SANCTIONS FOR REPETITION OF PROHIBITED ACTS WITHIN SAME CATEGORY

When the appropriate committee finds that an inmate has committed a prohibited act in the Low Moderate, Moderate, or High category, and when there has been a repetition of the same offense(s) within recent months (offenses for violation of the same code), the IDC may impose additional sanctions according to the following chart. (Note: An informal resolution may not be considered as a prior offense for purposes of this chart.)

Category	Prior offense (same code) within time period (mo)	Frequency of repeated offense	Sanction permitted
Low moderate (400 series)	6	2d offense	Low Moderate Sanctions, plus: 1. Disciplinary segregation, up to 7 days. 2. Forfeit earned SGT up to 10% or up to 15 days, whichever is less, and/or terminate or disallow extra good time (EGT) (an EGT sanction may not be suspended).
		3d offense, or more	Any sanctions available in Moderate (300) and Low Moderate (400) series.
Moderate (300 series)	12	2d offense	Moderate Sanctions (A,C,E–N), plus: 1. Disciplinary segregation, up to 21 days. 2. Forfeit earned SGT up to 37½% or up to 45 days, whichever is less, and/or terminate or disallow EGT (an EGT sanction may not be suspended).
		3d offense, or more	Any sanctions available in Moderate (300) and High (200) series.
High (200 series)	18	2d offense	High Sanctions (A,C,E–M), plus: 1. Disciplinary segregation, up to 45 days. 2. Forfeit earned SGT up to 75% or up to 90 days, whichever is less, and/or terminate or disallow EGT (an EGT sanction may not be suspended).
		3d offense or more	Any sanctions available in High (200) and Greatest (100) series.

TABLE 6.—SANCTIONS BY SEVERITY OF PROHIBITED ACT, WITH ELIGIBILITY FOR RESTORATION OF FORFEITED AND WITHHELD STATUTORY GOOD TIME

Severity of act	Sanctions	Max. amt. forf. SGT	Max. amt w/hd SGT	Elig. restoration forf. SGT (mo)	Elig. restoration w/hd SGT (mo)	Max. dis seg (days)
Greatest	A–F	100%	Good time creditable for single month during which violation occurs. Applies to all categories.	24	18	60
High	A–M	50% or 60 days, whichever is less		18	12	30
Moderate	A–N	25% or 30 days, whichever is less		12	6	15
Low Moderate	E–P	N/A		N/A	3	N/A

NOTE.—Restoration will be approved at the time of initial eligibility only when the inmate has shown a period of time with improved good behavior. When the IDC denies an inmate's application for restoration of forfeited or withheld statutory good time, the IDC shall notify the inmate of the reasons for denial. The IDC shall establish a new eligibility date, not to exceed six months from the date of denial, for the inmate to resubmit an application.

An inmate with an approaching parole effective date, or an approaching mandatory release or expiration date who also has forfeited good time may be placed in a Community Treatment Center only if that inmate is otherwise eligible under Bureau policy, and if there exists a legitimate documented need for such placement. Prior to placement, these cases shall be referred for approval of the Correctional Programs Administrator, Regional Office. The length of stay at the Community Treatment Center is to be held to the time necessary to establish residence and employment.

§ 541.14 Incident report and investigation.

(a) *Incident Report.* The Bureau of Prisons encourages informal resolution (requiring consent of both parties) of incidents involving violations of Bureau regulations. However, when staff witnesses or has a reasonable belief that a violation of Bureau regulations has been committed by an inmate, and when staff considers informal resolution of the incident inappropriate or unsuccessful, staff shall prepare an Incident Report and promptly forward it to the Greatest Severity Category, the correctional supervisor may informally dispose of the Incident Report or forward the Incident Report for investigation consistent with this section. The correctional supervisor shall expunge the inmate's file of the Incident Report if informal resolution is accomplished. Only the IDC may make a final disposition on a prohibited act in the Greatest Severity Category.

(b) *Investigation.* Staff shall conduct the investigation promptly unless circumstances beyond the control of the investigator intervene. The investigation officer should be an employee of supervisory level and may not be the employee reporting the incident, or one who was involved in the incident, in question.

(1) When it appears likely that the incident may be the subject of criminal prosecution, the investigating officer

shall suspend the investigation, and staff may not question the inmate until the Federal Bureau of Investigation or other investigative agency interviews have been completed or until the agency responsible for the criminal investigation advises that staff questioning may occur.

(2) The inmate may receive a copy of the Incident Report prior to being seen by the investigating agency. The investigating officer (Bureau of Prisons) shall give the inmate a copy of the Incident Report at the beginning of the investigation, unless there is good cause for delivery at a later date, such as absence of the inmate from the institution or a medical condition which argues against delivery. If the investigation is delayed for any reason, any employee may deliver the charge(s) to the inmate. The staff member shall note the date and time the inmate received a copy of the Incident Report. The investigator shall also read the charge(s) to the inmate and ask for the inmate's statement concerning the incident unless it appears likely that the incident may be the subject of criminal prosecution. The investigator shall advise the inmate of the right to remain silent at all stages of the disciplinary process but that the inmate's silence may be used to draw an adverse inference against the inmate at any stage of the institutional disciplinary process. The investigator shall also inform the inmate that the inmate's silence alone may not be used to support a finding that the inmate has committed a prohibited act. The investigator shall then thoroughly investigate the incident. The investigator shall record all steps and actions taken on the Incident Report and forward all relevant material to the staff holding the initial hearing. The inmate does not receive a copy of the investigation. However, if the case is ultimately forwarded to the Institution Discipline Committee, the Committee shall give a copy of the investigation and other relevant materials to the inmate's staff representative for use in presentation on the inmate's behalf.

§ 541.15 Initial hearing.

The Warden shall delegate to one or more institution staff members the authority and duty to hold an initial hearing upon completion of the investigation. The Warden shall authorize these staff members to impose minor sanctions (G through P) for violation of prohibited act(s). In order to insure impartiality, the appropriate staff member(s) (hereinafter usually referred to as the Unit Discipline Committee (UDC)) may not be the reporting or investigating officer or a witness to the incident. However, a staff member witnessing an incident may serve on the UDC where virtually every staff member in the institution witnesses the incident in whole or in part. If the UDC finds at the initial hearing that an inmate has committed a prohibited act, the UDC may impose minor dispositions and sanctions. When an alleged violation of Bureau rules is serious and warrants consideration for other than minor sanctions, the UDC may impose minor dispositions and sanctions. When an alleged violation of Bureau rules is serious and warrants consideration for other than minor sanctions, the UDC shall refer the charges to the Institution Discipline Committee for further hearing. The UDC must refer all greatest category charges to the IDC. The following minimum standards apply to initial hearings in all institutions.

(a) Staff shall give each inmate charged with violating a Bureau rule a written copy of the charge(s) against the inmate within 24 hours of the time staff became aware of the inmate's involvement in the incident.

(b) Each inmate so charged is entitled to an initial hearing before the UDC, ordinarily held within two work days (excluding day of notice, weekends and holidays) of the time staff became aware of the inmate's involvement in the incident to consider the charge(s) brought against the inmate.

(c) The inmate is entitled to be present at the initial hearing except during deliberations of the decision maker(s) or when institutional security would be jeopardized by the inmate's presence. The UDC shall clearly document in the record of the hearing reasons for excluding an inmate from the hearing. An inmate may waive the right to be present at this hearing, provided that the waiver is documented by staff and reviewed by the UDC. A waiver may be in writing, signed by the inmate, or if the inmate refuses to sign a waiver, it may be shown by a memorandum signed by staff and witnessed by a second staff member indicating the inmate's refusal to appear at the hearing. The UDC may conduct a hearing in the absence of an inmate when the inmate waives the right to appear. When an inmate escapes or is otherwise absent from custody, the UDC shall conduct a hearing in the inmate's absence at the institution in which the inmate was last confined.

(d) The inmate is entitled to make a statement and to present documentary evidence in the inmate's own behalf.

(e) The Unit Discipline Committee may informally resolve any High, Moderate, or Low Moderate charge. The UDC chall expunge the inmate's file of the Incident Report if informal resolution is accomplished.

(f) The Unit Discipline Committee shall consider all evidence presented at the hearing and shall make a decision in accordance with the greater weight of the evidence and one which is supported by substantial evidence manifested in the record of the proceedings. The UDC shall take one of the following actions:

(1) Find that the inmate committed the prohibited act charged and/or a similar prohibited act if reflected in the Incident Report;

(2) Find that the inmate did not commit the prohibited act charged or a similar prohibited act if reflected in the Incident Report; or

(3) Refer the case to the IDC for further hearing.

The UDC shall give the inmate a written copy of the decision and disposition by the close of business the next work day. Any action taken as a minor disposition is reviewable under the Administrative Remedy Procedure (see Part 542 of this Chapter).

(g) The UDC shall prepare a record of its proceedings which need not be verbatim. A record of the hearing and supporting documents are kept in the inmate's file.

(h) When the alleged violation of Bureau rules is serious and warrants consideration for other than minor sanctions (G through P), the UDC shall refer the charge(s) without indication of findings as to commission of the alleged violation to the Institution Discipline Committee (IDC) for hearing and disposition. The UDC shall forward copies of all relevant documents to the chairman of the IDC with a brief statement of reasons for the referral along with any recommendations for appropriate disposition if the IDC finds the inmate has committed the act charged and/or a similar prohibited act. The inmate whose charge is being referred to the Institution Discipline Committee may be retained in administrative detention or other restricted status, but the UDC may not impose a final disposition if the matter is being referred to the IDC.

(i) When charges are to be referred to the Institution Discipline Committee, the UDC shall advise the inmate of the rights afforded at a hearing before the IDC. The UDC shall ask the inmate to indicate a choice of staff representative, if any, and the names of any witnesses the inmate wishes to be called to testify at the hearing and what testimony they are expected to provide. The UDC shall advise the inmate that the inmate may

waive the right to be present at the IDC hearing, but still elect to have witnesses and/or a staff representative appear in the inmate's behalf at this hearing.

(j) When the Unit Discipline Committee holds a full hearing and determines that the inmate did not commit a prohibited act of High, Moderate or Low Moderate Severity, the UDC shall expunge the inmate's file of the Incident Report and related documents. The UDC must refer to the Institution Discipline Committee all incidents involving prohibited acts of Greatest Severity.

(k) The UDC may extend time limits imposed in this section for a good cause shown by the inmate or staff and documented in the record of the hearing.

§ 541.16 Establishment and functioning of Institution Discipline Committee.

(a) The Warden shall establish a single Institution Discipline Committee. In the event of a serious disturbance or other emergency, or if an inmate commits an offense in the presence of the IDC, the Warden may establish more than one Institution Discipline Committee with approval of the appropriate Regional Director.

(b) The Warden may appoint as many members to the Institution Discipline Committee as are appropriate. At least three members, including the chairman, shall be present at any hearing to constitute a quorum. The chairman and at least one member present at the hearing must be of the department head level or higher. The third member and additional members of the Committee need not be of department head level. For the purpose of this section, "department head" includes acting department head. In order to insure impartiality, no member of the IDC may be the reporting officer, investigating officer, or UDC member or a witness to the incident or play any significant part in having the charge(s) referred to the IDC. However, a staff member witnessing an incident may sit as a member of the IDC where virtually every staff member in the institution witnessed the incident in whole or in part.

(c) The Institution Discipline Committee shall conduct hearings, make findings, and impose appropriate sanctions for incidents of inmate misconduct referred to it for disposition following the hearing required by § 541.15 before the UDC. The IDC may not hear any case or impose any sanctions in a case not heard and referred by the UDC. Only the Institution Discipline Committee shall have the authority to impose or suspend sanctions A through F. This Committee shall conduct reviews of inmates placed in disciplinary segregation in accordance with the requirements of § 541.20.

§ 541.17 Procedures in Institution Discipline Committee hearings.

The Institution Discipline Committee shall proceed as follows:

(a) The Warden shall give an inmate advance written notice of the charge(s) against the inmate no less than 24 hours before the inmate's appearance before the Institution Discipline Committee unless the inmate is to be released from custody within that time. An inmate may waive in writing the 24-hour notice requirement.

(b) The Warden shall provide an inmate the service of a full time staff member to represent the inmate at the hearing before the Institution Discipline Committee should the inmate so desire. The Warden, the members of the IDC, the reporting officer, investigating officer, a witness to the incident, and UDC members involved in the case may not act as staff representative. The Warden may exclude other staff from acting as staff representative in a particular case when there is a potential conflict in roles. The staff representative shall be available to assist the inmate if the inmate desires by speaking to witnesses and by presenting favorable evidence to the IDC on the merits of the charge(s) or in extenuation or mitigation of the charge(s). The chairman shall arrange for the presence of the staff representative selected by the inmate. If the staff member selected declines or is unavailable because of absence from the institution, the inmate has the option of selecting another representative, or in the case of an absent staff member of waiting a reasonable period for the staff member's return, or of proceeding without a staff representative. When several staff members decline this role, the Warden shall promptly appoint a staff representative to assist the inmate. The IDC shall afford a staff representative adequate time to speak with the inmate and interview requested witnesses where appropriate. While it is expected that a staff member will have had ample time to prepare prior to the hearing, delays in the hearing to allow for adequate preparation may be ordered by the chairman of the Institution Discipline Committee. When it appears that the inmate is not able to properly make a presentation on his own behalf (for example, an illiterate inmate), the Warden shall appoint a staff representative for that inmate, even if one is not requested.

(c) The inmate is entitled to make a statement and to present documentary evidence in the inmate's own behalf. An inmate has the right to submit names of requested witnesses and have them called to testify and to present documents in the inmate's behalf, provided the calling of witnesses or the disclosure of documentary evidence does not jeopardize or threaten institutional or an individual's security. The chairman shall call those witnesses who have information directly relevant to the charge(s) and who are reasonably available. This may include witnesses from outside of the institution. The inmate charged may be excluded during the appearance of the outside witness. The appearance of the outside witness should be in an area of the institution in which outside visitors are usually allowed. The chairman need not call repetitive witnesses. The reporting officer and other adverse witnesses need not be called if their knowledge of the incident is adequately summarized in the Incident Report and other investigative materials supplied to the IDC. The chairman shall request submission of written statements from unavailable witnesses when necessary for an appreciation of the circumstances surrounding the charge(s). The chairman shall document reasons for declining to call requested witnesses in the IDC report. The inmates's staff representative, or when the inmate waives staff representation members of the Committee, shall question witnesses requested by the inmate who are called before the IDC. The inmate who has waived staff representation may submit questions for requested witnesses in writing to the Committee. The inmate may not question any witness at the hearing.

(d) An inmate has the right to be present throughout the Institution Discipline Committee hearing except during deliberations of the Committee or when institutional security would be jeopardized. The chairman must document in the record the reason(s) for excluding an inmate from the hearing. An inmate may waive the right to be present at the hearing, provided that the waiver is documented by staff and reviewed by the IDC. A waiver may be in writing, signed by the inmate, or if the inmate refuses to sign a waiver, it may be shown by a memorandum signed by staff and witnessed by a second staff member indicating the inmate's refusal to appear at the hearing. The Committee may conduct a hearing in the absence of an inmate when the inmate waives the right to appear. When an inmate escapes or is otherwise absent from custody, the Institution Discipline Committee shall conduct a hearing in

the inmate's absence at the institution in which the inmate was last confined. When an inmate who has had any sanctions imposed by the IDC while absent from custody returns to custody, the Warden shall have the charges reheard before the Institution Discipline Committee at the institution to which the inmate is designated after return to custody, and following appearance before the Unit Discipline Committee at that institution. The UDC shall ensure that the inmate has all rights required for appearance at the Institution Discipline Committee, including delivery of charge(s), advisement of the right to remain silent and other rights to be exercised at the IDC. All the applicable procedural requirements of Institution Discipline Committee hearings apply to this rehearing, except that written statements of witnesses not readily available may be liberally used instead of in-person witnesses. The IDC upon rehearing may dismiss the charge(s), or may modify but may not increase the sanctions previously imposed in the inmate's absence.

(e) The IDC may postpone or, at any time prior to making a decision as to whether or not a prohibited act was committed, may continue the hearing until a later date whenever further investigation or more evidence is needed. A postponement or continuance must be for good cause (determined by the IDC chairman) shown by the inmate or staff and should be documented in the record of the hearing.

(f) The IDC shall consider all evidence presented at the hearing and shall make a decision in accordance with the greater weight of the evidence and one which is supported by substantial evidence manifested in the record of the proceedings. The Committee shall find that the inmate either:

(1) Committed the prohibited act charged and/or a similar prohibited act if reflected in the Incident Report, or

(2) Did not commit the prohibited act charged or a similar prohibited act if reflected in the Incident Report.

When a disciplinary committee decision is based on confidential informant information, the UDC or IDC shall document, ordinarily in the committee report, its finding as to the reliability of each confidential informant relied on *and the factual basis for that finding.* When it appears that this documentation in the committee report would reveal the confidential informant's identity, the finding as to the reliability of each confidential informant relied on and the factual basis for that finding shall be made part of the hearing record in a separate report, prepared by the IDC chairman, not available to the inmate.

(g) The Institution Discipline Committee shall prepare a record of its proceedings which need not be verbatim. This record must be sufficient to document the advisement of inmate rights, the Committee's findings, the Committee's decision and the specific evidence relied on by the Committee, and must include a brief statement of the reasons for the sanctions imposed. The evidence relied upon, the decision, and the reasons for the actions taken must be set out in specific terms unless doing so would jeopardize institutional security. The IDC shall give the inmate a written copy of the decision and disposition.

(h) A record of the hearing and supporting documents are to be kept in the inmate central file.

(i) The Institution Discipline Committee shall expunge an inmate's file of the Incident Report and related documents whenever the Committee finds the inmate did not commit a prohibited act. The requirement for expunging the inmate's file does not preclude maintaining for research purposes copies of disciplinary actions resulting in "not guilty" findings in a master file separate from the inmate's instutition file. However, institution staff may not use or allow the usage of the contents of this master file in a manner which would adversely affect the inmate. Likewise, the expungement requirement does not require the destruction of medical reports or other reports relating to a particular inmate which must be maintained to document medical or other treatment given in a special housing unit. If an inmate's conduct during one continuous incident may constitute more than one prohibited act, and if the incident is reported in a single Incident Report, and if the IDC finds the inmate has not committed every prohibited act charged, then the IDC shall record its findings clearly and shall mark out on the Incident Report the incident and code references to charges which were not proved. Institution staff may not use the existence of charged but unproved misconduct against the inmate.

§ 541.18 Dispositions of the Institution Discipline Committee.

The Institution Discipline Committee has available a broad range of sanctions and dispositions when it has completed a hearing. The Institution Discipline Committee may do any of the following:

(a) Dismiss any charge(s) before it upon a finding that the inmate did not commit the prohibited act(s). The IDC shall order the record of charge(s) expunged upon such finding.

(b) Impose sanctions A through P as provided in § 541.13.

(c) Suspend the execution of a sanction it imposes as provided in § 541.13.

§ 541.19 Appeals from Unit Discipline Committee or Institution Discipline Committee actions.

At the time the Unit Discipline Committee or Institution Discipline Committee gives an inmate notice of its decision, they shall also advise the inmate that the inmate may appeal the decision under Administrative Remedy Procedures (see Part 542 of this Chapter). On appeals, the Warden, Regional Director, or General Counsel may approve, modify, reverse, or send back with directions any disciplinary action of the Unit Discipline Committee or Institution Discipline Committee but may not increase the sanctions imposed. On appeals, the Warden, Regional Director, or General Counsel shall consider:

(a) Whether the Unit Discipline Committee or the Institution Discipline Committee substantially complied with the regulations on inmate discipline;

(b) Whether the Unit Discipline Committee or Institution Discipline Committee based its decision on substantial evidence; and

(c) Whether an appropriate sanction was imposed according to the severity level of the Prohibited Act.

§ 541.20 Justification for placement in disciplinary segregation and review of inmates in disciplinary segregation.

(a) Except as provided in paragraph (b) of this section, an inmate may be placed in disciplinary segregation only by order of the Institution Discipline Committee following a hearing in which the inmate has been found to have committed a prohibited act in the Greatest, High, or Moderate Category, or a repeated offense in the Low Moderate Category. The IDC may order placement in disciplinary segregation only when other available dispositions are inadequate to achieve the purpose of punishment and deterrence necessary to regulate an inmate's behavior within acceptable limits.

(b) The Warden may temporarily (not exceeding five days) move an inmate to a more secure cell (which may be in an area ordinarily set aside for disciplinary segregation and which therefore requires the withdrawal of privileges ordinarily afforded in administrative detention status, until a hearing before the Institution Discipline Committee can be held) who (1) is causing a serious

disruption (threatening life, serious bodily harm, or property) in administrative detention, (2) cannot be controlled within the physical confines of administrative detention, and (3) upon advice of appropriate medical staff, does not require confinement in the institution hospital for mental or physical treatment, or who would ordinarily be housed in the institution hospital for mental or physical treatment, but who cannot safely be housed there because the hospital does not have a room or cell with adequate security provisions. The Warden may delegate this authority no further than to the official in charge of the institution at the time the move is necessary.

(c) The Institution Discipline Committee shall conduct a hearing and formally review the status of each inmate who spends seven continuous days in disciplinary segregation and thereafter shall review these cases on the record in the inmate's absence each week and shall conduct a hearing and formally review these cases at least once every 30 days. The inmate appears before the IDC at the 30-day hearings, unless the inmate waives the right to appear. A waiver may be in writing, signed by the inmate, or if the inmate refuses to sign a waiver, it may be shown by a memorandum signed by staff and witnessed by a second staff member indicating the inmate's refusal to appear at the hearing. Staff shall conduct a psychiatric or psychological assessment, including a personal interview, when disciplinary segregation continues beyond 30 days. The assessment, submitted to the Committee in a written report, shall address the inmate's adjustment to surroundings and the threat the inmate poses to self, staff and other inmates. Staff shall conduct a similar psychiatric or psychological assessment and report at subsequent one-month intervals if segregation continues for this extended period.

(d) The Institution Discipline Committee may release an inmate from disciplinary segregation earlier than the sanction initially imposed when the Committee finds that continuation in disciplinary segregation is no longer necessary to regulate the inmate's behavior within acceptable limits or for fulfilling the purpose of punishment and deterrence which initially resulted in the inmate's placement in disciplinary segregation status. The Committee may not increase any previously imposed sanction.

§ 541.21 Conditions of disciplinary segregation.

(a) Disciplinary segregation is the status of confinement of an inmate housed in a special housing unit in a cell either alone or with other inmates, separated from the general population. Inmates housed in disciplinary segregation have significantly fewer privileges than those housed in administrative detention.

(b) The Warden shall maintain for each segregated inmate basic living levels of decency and humane treatment, regardless of the purpose for which the inmate has been segregated Living conditions may not be modified for the purpose of reinforcing acceptable behavior and different levels of living arrangements will not be established. Where it is determined necessary to deprive an inmate of a usually authorized item, staff shall prepare written documentation as to the basis for this action, and this document will be signed by the Warden, indicating the Warden's review and approval.

(c) The basic living standards for segregation are as follows:

(1) *Segregation Conditions.* The quarters used for segregation must be well-ventilated, adequately lighted, appropriately heated and maintained in a sanitary condition at all times. All cells must be equipped with beds. Strip cells may not be a part of the segregation unit. Any strip cells which are utilized must be a part of the medical facility and under the supervision and control of the medical staff.

(2) *Cell Occupancy.* Except in emergencies, the number of inmates confined to each cell or room may not exceed the number for which the space was designated. The Warden may approve temporary excess occupancy if the Warden finds there is an emergency requiring this action.

(3) *Clothing and Bedding.* An inmate in segregation may wear normal institution clothing but may not have a belt. Staff shall furnish a mattress and bedding. Cloth or paper slippers may be substituted for shoes at the discretion of the Warden. An inmate may not be segregated without clothing, mattress, blankets and pillow, except when prescribed by the medical officer for medical or psychiatric reasons.

Inmates in special housing status will be provided, as nearly as practicable, the same opportunity for the issue and exchange of clothing, bedding, and linen, and for laundry as inmates in the general population. Exceptions to this procedure may be permitted only when found necessary by the Warden or designee. Any exception, and the reasons for this, must be recorded in the unit log.

(4) *Food.* Staff shall give a segregated inmate nutritionally adequate meals, ordinarily from the menu of the day for the institution. Staff may dispense disposable utensils when necessary.

(5) *Personal Hygiene.* Segregated inmates shall have the opportunity to maintain an acceptable level of personal hygiene. Staff shall provide toilet tissues, washbasin, toothbrush, eyeglasses, shaving utensils, etc., as needed. Staff may issue a retrievable kit of toilet articles. Each segregated inmate shall have the opportunity to shower and shave at least three times a week, unless these procedures would present an undue security hazard. This security hazard will be documented and signed by the Warden, indicating the Warden's review and approval.

Inmates in special housing will be provided, where practicable, barbering and hair care services. Exceptions to this procedure may be permitted only when found necessary by the Warden or designee.

(6) *Exercise.* Staff shall permit each segregated inmate no less than five hours exercise each week. Exercise should be provided in five one-hour periods, on five different days, but if circumstances require, one-half hour periods are acceptable if the five-hour minimum and different days schedule is maintained. These provisions must be carried out unless compelling security or safety reasons dictate otherwise. Institution staff shall document these reasons.

Exercise periods, not to exceed one week, may be withheld from an inmate by order of the Warden, upon recommendation of the Institution Discipline Committee. This recommendation may be made only following a hearing before the IDC, the hearing to be held in accordance with the provisions of § 541.17, following those provisions which are appropriate to these circumstances, and only upon a finding by the IDC that the actions of the segregated inmate pose a threat to the safety or health conditions of the unit.

(7) *Personal Property.* Institution staff shall ordinarily impound personal property.

(8) *Reading Material.* Staff shall provide a reasonable amount of non-legal reading material, not to exceed five books at any one time, on a circulating basis. Staff shall provide the inmate opportunity to possess religious scriptures of the inmate's faith. As to legal materials, see Part 543, Subpart B.

(9) *Supervision.* In addition to the direct supervision afforded by the unit officer, a member of the medical

department and one or more responsible officers designated by the Warden (ordinarily a correctional supervisor) shall see each segregated inmate daily, including weekends and holidays. Members of the program staff shall visit inmates in special housing upon request.

(10) *Correspondence and Visits.* As to correspondence privileges, see Part 540, Subpart B. Staff shall make reasonable effort to notify approved social visitors of any necessary restriction on ordinary visiting procedures so that they may be spared disappointment and unnecessary inconvenience. If ample time for correspondence exists, staff may place the burden of this notification to visitors on the inmate. As to general visiting and telephone privileges, see Part 540, Subpart D and Subpart I. In respect to legal, religious, and privileged out-going mail, the relevant regulations must be followed by institution staff (see Parts 540, 543, and 548 of this Chapter).

§ 541.22 Administrative detention.

Administrative detention is the status of confinement of an inmate in a special housing unit in a cell either by himself or with other inmates which serves to remove the inmate from the general population.

(a) *Placement in Administrative Detention.* The Warden may delegate authority to place an inmate in administrative detention to correctional supervisors. Prior to the inmate's placement in administrative detention, the correctional supervisor is to review the available information and determine whether the inmate's placement in administrative detention is warranted. The Warden may place an inmate in administrative detention when the inmate is in holdover status (i.e., en route to a designated institution) during transfer, or is a new commitment pending classification. The Warden may also place an inmate in administrative detention when the inmate's continued presence in the general population poses a serious threat to life, property, self, staff, other inmates or to the security or orderly running of the institution and when the inmate:

(1) Is pending a hearing for a violation of Bureau regulations;

(2) Is pending an investigation of a violation of Bureau regulations;

(3) Is pending investigation or trial for a criminal act;

(4) Is pending transfer;

(5) Requests admission to administrative detention for the inmate's own protection, or staff determines that admission to or continuation in administrative detention is necessary for the inmate's own protection (See § 541.23); or

(6) Is terminating confinement in disciplinary segregation and placement in general population is not prudent. The Institution Discipline Committee is to advise the inmate of this determination and the reasons for such action.

(i) In Security Level 1 through 5 and Administrative type (exception pretrial inmates) institutions, staff within 90 days of an inmate's placement in post-disciplinary detention shall either return the inmate to the general inmate population or effect a transfer to a more suitable institution.

(ii) The Assistant Director, Correctional Programs Division, shall review for purpose of making a disposition, the case of an inmate not transferred from post-disciplinary detention within the time frame specified in paragraph (a)(6)(i) of this section.

(iii) In Security Level 6 institutions, staff will attempt to adhere to the 90-day limit for an inmate's placement in post-disciplinary detention. Because security needs required for an inmate in a Security Level 6 institution may not be available outside of post-disciplinary detention, the Warden may approve an extension of this placement upon determining in writing that it is not practicable to release the inmate to the general inmate population or to effect a transfer to a more suitable institution.

(iv) The appropriate Regional Director and the Assistant Director, Correctional Programs Division, shall review for purpose of making a disposition, the case of an inmate in a Security Level 6 institution not transferred from post-disciplinary detention within the 90-day time frame specified in paragraph (iii) of this section. A similar, subsequent review shall be conducted every 60–90 days if post-disciplinary detention continues for this extended period.

(b) *Memorandum Detailing Reasons For Placement.* The Warden shall prepare a memorandum detailing the reasons for placing an inmate in administrative detention, with a copy given to the inmate, provided institutional security is not compromised thereby. Staff shall deliver this memorandum to the inmate within 24 hours of his placement in administrative detention, unless this delivery is precluded by exceptional circumstances. A memorandum is not necessary for an inmate placed in administrative detention when this placement is a direct result of the inmate's holdover status.

(c) *Review of Inmates Housed in Administrative Detention.* (1) Except as otherwise provided in paragraphs (c)(2) and (c)(3) of this section, the Warden shall designate appropriate staff to review the status of inmates housed in administrative detention. The reviewing authority shall conduct a record review within three work days of the inmate's placement in administrative detention and shall hold a hearing and formally review the status of each inmate who spends seven continuous days in administrative detention, and thereafter shall review these cases on the record (in the inmate's absence) each week, and shall hold a hearing and review these cases formally at least every 30 days. The inmate appears before the reviewing authority at the hearing unless the inmate waives the right to appear. A waiver may be in writing, signed by the inmate, or if the inmate refuses to sign a waiver, it may be shown by a memorandum signed by staff and witnessed by a second staff member indicating the inmate's refusal to appear at the hearing. Staff shall conduct a psychiatric or psychological assessment, including a personal interview, when administrative detention continues beyond 30 days. The assessment, submitted to the reviewing authority in a written report, shall address the inmate's adjustment to surroundings and the threat the inmate poses to self, staff and other inmates. Staff shall conduct a similar psychiatric or psychological assessment and report at subsequent one-month intervals should detention continue for this extended period. Administrative detention is to be used only for short periods of time except where an inmate needs long-term protection (see § 541.23), or where there are exceptional circumstances, ordinarily tied to security or complex investigative concerns. An inmate may be kept in administrative detention for longer term protection only if the need for such protection is documented by the reviewing authority. Provided institutional security is not compromised, the inmate shall receive at each formal review a written copy of staff's decision and the basis for this finding. The reviewing authority shall release an inmate from administrative detention when reasons for placement cease to exist.

(2) The Warden shall designate appropriate staff to meet weekly with an inmate in administrative detention when this placement is a direct result of the inmate's holdover status. Staff shall also review this type of case on the record each week.

(3) When an inmate is placed in administrative detention for protection, but not at that inmate's request, the Warden or designee is to review the inmate's status within two work days of

this placement to determine if continued protective custody is necessary. A formal hearing is to be held within seven days of the inmate's placement (see § 541.23, Protection Cases).

(d) *Conditions of Administrative Detention.* The basic level of conditions as described in § 541.21(c) for disciplinary segregation also apply to administrative detention. If consistent with available resources and the security needs of the unit, the Warden shall give an inmate housed in administrative detention the same general privileges given to inmates in the general population. This includes, but is not limited to, providing an inmate with the opportunity for participation in an education program, library services, social services, counseling, religious guidance and recreation. unless there are compelling reasons to the contrary, institutions shall provide commissary privileges and reasonable amounts of personal property. An inmate in administrative detention shall be permitted to have a radio, provided that the radio is equipped with ear plugs. Exercise periods, at a minimum, will meet the level established for disciplinary segregation and will exceed this level where resources are available. The Warden shall give an inmate in administrative detention visiting, telephone, and correspondence privileges in accordance with Part 540 of this Chapter. The Warden may restrict for reasons of security, fire safety, or housekeeping the amount of personal property that an inmate may retain while in administrative detention.

§ 541.23 Protection cases.

(a) Staff may consider the following categories of inmates as protection cases:

(1) Victims of inmate assaults;

(2) Inmate informants;

(3) Inmates who have received inmate pressure to participate in sexual activity;

(4) Inmates who seek protection through detention, claiming to be former law enforcement officers, informants, or others in sensitive law enforcement positions, whether or not there is official information to verify the claim;

(5) Inmates who have previously served as inmate gun guards, dog caretakers, or in similar positions in state or local correctional facilities;

(6) Inmates who refuse to enter the general population because of alleged pressures from other unidentified inmates;

(7) Inmates who will not provide, and as to whom staff cannot determine, the reason for refusal to return to the general population;

(8) Inmates about whom staff has good reason to believe the inmate is in serious danger of bodily harm.

(b) Inmates who are placed in administrative detention for protection, but not at their own request or beyond the time when they feel they need to be detained for their own protection, are entitled to a hearing, no later than seven days from the time of their admission (or from the time of their detention beyond their own consent). This hearing is conducted in accordance with the procedural requirements of § 541.17, as to advance written notice, staff representation, right to make a statement and present documentary evidence, to request witnesses, to be present throughout the hearing, and advance advisement of inmate rights at the hearing, and as to making a record of the proceedings.

(c) Ordinarily, staff may place an inmate in administrative detention as provided in paragraph (a) of this section relating to protection cases, for a period not to exceed 90 days. Staff shall clearly document in the record the reasons for any extension beyond this 90-day period.

(d) Where appropriate, staff shall first attempt to place the inmate in the general population of their particular facility. Where inappropriate, staff shall clearly document the reason(s) and refer the case, with all relevant material, to their Regional Director, who, upon review of the material, may order the transfer of a protection case.

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Part V

Environmental Protection Agency

Debarment and Suspension Under EPA Assistance Programs

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 32

[OGC–FRL–2146–4]

Debarment and Suspension Under EPA Assistance Programs

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule establishes procedures which enable EPA to deny any individual, organization, or unit of government the opportunity to participate in EPA-assisted programs because of misconduct or poor performance.

It allows the Director, Grants Administration Division, to suspend or debar any "person" from participation in any EPA-assisted project if that person's exclusion is necessary to protect EPA's interest in a program.

This rule provides affected persons with notice and an opportunity for a hearing; provides for representation by counsel; and establishes a system for appeal of hearing determinations.

This rule applies to all EPA programs listed in the Catalogue of Federal Domestic Assistance Numbers 66.001 through 66.700, except 66.603.

DATE: This rule is effective August 17, 1982.

FOR FURTHER INFORMATION CONTACT: Stephen M. Sorett (202) 382–5313, Robert F. Meunier (202) 382–5291.

SUPPLEMENTARY INFORMATION: In response to our request for comments on the proposed rule, published in the Federal Register on February 17, 1982, (47 FR 7194) several commenters suggested changes which have been incorporated into this final rule. We believe the comments have contributed substantially to enhance the quality of this regulation. Most of the comments received support a debarment and suspension process similar to the one we proposed. The following discussion addresses changes suggested by the commenters and is arranged by topic corresponding to the sections as they appear in the regulation. Significant comments that did not result in changes are also addressed. All comments received are available for examination in Docket Number A–82–22 at the Central Docket Section, Gallery 1, West Tower Lobby, Environmental Protection Agency, 401 M. St. SW., Washington, D.C., between 8 a.m. and 4:30 p.m., business days.

Applicability

This rule has comprehensive coverage in that it applies to all recipients of EPA assistance as well as their contractors and subcontractors at any tier. It also includes affiliates of persons and proposed that serious problems with performance matters that contribute to fraud, waste, or abuse should be a basis for debarment of suspension. In addition, this rule provides for voluntary exclusion, settlements, and limited participation where appropriate.

Under the Municipal Wastewater Treatment Construction Grant Amendments of 1981, Pub. L. 97–117, EPA's Step 1 and Step 2 system of assistance for the construction grants program has been eliminated in favor of a system of allowances. With respect to procurements for facilities plans, and plans, specifications and estimates undertaken by applicants for EPA construction grants in anticipation of receiving an allowance in accordance with section 201(1) of the Clean Water Act, we have determined that this Part does not apply to the prospective applicant at the time those procurements occur. However, if an applicant entered into an agreement for these services with a person named on the EPA Master List. EPA will determine whether the applicant should be found nonresponsible under Part 30 of this subchapter or be subject to debarment or suspension under this Part.

One commenter suggested that section 105(e) of the Clean Air Act provides sufficient authority for EPA to reduce or revoke Air Pollution Control grants thereby making the applicability of this regulation to that program unnecessary. We disagree. Section 105(e) only addresses actions to be taken against the grantee. EPA may desire to prevent a person from receiving subagreements under a section 105 award without alerting the amount of the assistance to the recipient. EPA will take suspension or debarment actions against only those persons necessary to protect the integrity of its assistance programs. Often that may be accomplished without regard to a recipient's award.

Definitions

Some commenters suggested that the definitions of "affiliate" be clarified by giving some examples of affiliated relationships. Others sought examples of the documents which comprise the "governing instruments." Because the definition of "affiliate" must be broad, it is not possible to issue a complete list of examples; however, it covers parent/subsidiary relationships and those where an organization does business under several names. It also covers organizations which have interlocking directorates. To help clarify the term "affiliate," we have included these relationships in the definition. We have also defined "governing instruments."

Causes for Debarment

One commenter suggested that § 32.200 be expanded to include, as a cause, failure to permit access to records.

The General Regulation for Assistance Programs (40 CFR Part 30) requires assistance and subagreement recipients to provide access to records. Failure to comply with this requirement may result in disallowance of costs. In most cases, this remedy is sufficient and more appropriate. It is EPA's policy to use debarment only where necessary to protect EPA's interest and not as a means of punishment or coercion. An established pattern or history of failure to provide access to records, or noncompliance with any other requirement may, however, be a cause for debarment. We have, therefore, listed these matters as a cause under § 32.200(e).

Another commenter suggested that the proposed rule did not permit debarment of a person where that person admittedly participated in a corrupt or illegal act but was granted immunity from prosecution in exchange for testimony. We believe it is appropriate that EPA debar those persons and have changed section 32.200(b) accordingly.

One commenter expressed concern that proposed § 32.200(f) would permit debarment of an assistance recipient where it awarded a subagreement to a person who is subsequently debarred, if the recipient continues to do business with that person even though the recipient is unaware of the debarment.

No debarment action will result solely because the recipient continues previously agreed-upon business with a person who, during the course of that business, is debarred. An assistance recipient or other person should consult with EPA only when it intends to initiate business with a person. This usually occurs at the time a contract or other agreement is signed. Whenever new business with a person is initiated on that or another project, the recipient should again consult with EPA. Section 32.200(h) of the final rule reflects this intent. We note, however, that if a recipient is doing business with a person who is debarred, the debarment may provide the recipient sufficient reason to terminate its relationship with its contractor in accordance with the terms of the appropriate contract clause.

Another commenter suggested that the terms "serious" and "substantial" be eliminated from § 32.200(b) of the proposed rule in order to avoid vagueness. While those terms are subject to different interpretations, they are necessary to protect a person from being debarred for nonserious conduct which could be handled through other appropriate means. In this view, other commenters expressed concern that threats of debarment actions could be used against persons as a means of punishment or coercion. After considering both these comments, we decided to retain the original wording in § 32.200(c) of the final rule.

One commenter suggested that we eliminate § 32.200(b) through (g) of the proposed rule as causes for debarment. The commenter believes that paragraphs (b) and (e) permit frivolous actions to be brought by anyone based on an erroneous subjective judgment which, even if proven wrong, requires the person subject to the debarment action to incur legal expenses. The commenter questions why paragraph (c), violation of contractual provisions against receipt of contingent fees, is a specific cause for debarment. The commenter suggests that paragraph (d), debarment by any Federal agency, permits debarment for an event which may have no relevance to EPA programs; that doing business with a person on the Master List, paragraph (f), assumes that the Master List is widely known; and that paragraph (g), the "catch all" clause, is so broad and vague as to permit improperly motivated debarments.

First, debarment actions are not automatically instituted merely because an assertion against a person is made. Section 32.201 permits the Director to refer information received concerning causes for debarment to the appropriate officials for further investigation. This screening process is specifically incorporated in the debarment process to prevent frivolous claims that might cause needless expense to both the person concerned and the Government.

Paragraph (c) reflects an EPA policy prohibiting the recipient from paying fees from assistance awards to persons who inform them of the availability of assistance or render services to obtain an award payment which is contingent upon receipt of award. Therefore, we elected to include it as a specific cause for debarment.

Paragraph (d) permits EPA to recognize the debarment of another Federal Agency, and to adopt that debarment as its own without the need to duplicate the full Federal effort already expended for the same purpose. The fact that another Federal agency has debarred a person, however, does not mean that EPA automatically adopts that debarment. EPA treats each case independently, regardless of the cause under which debarment is proposed. EPA will always examine the basis for the other Federal agency debarment to determine whether EPA debarment is warranted to protect its interest. Section 32.101 specifically mandates that there be a reasonable connection between performance on an EPA program and the offense the person being debarred or suspended is alleged to have committed. For example, if Federal Agency A debars X Company for incompetently preparing several studies unrelated to EPA matters, it is inappropriate for EPA to suspend or debar that person. However, if X Company had participated in a bid-rigging scheme in order to receive a contract to construct a road, to the extent that such activity is relevant to EPA's programs, EPA may properly propose debarment.

Paragraph (f) makes doing business with a listed person a cause for debarment. The debarment program will only be as effective as EPA's ability to enforce adherence to the Master List. The prohibition against doing business with listed persons is also contained in the proposed revision to Part 30, Procurement Under Assistance Agreements. All assistance recipients and contractors are therefore on notice of the prohibition. The final regulation (see § 32.500) requires that the list be made available in every EPA Office of Regional Counsel for any person to consult. It is also available in the Office of the Director, Grants Administration Division, EPA Headquarters, and is updated by the Director at least every calendar quarter.

Paragraph (g) is needed because it is not possible to list every act which may give rise to a cause for debarment.

One commenter expressed concern that § 32.200 contains too many legal terms of art. We have attempted to write this regulation in plain English so that it is easily understood. However, some sections, such as this one, require legal precision. Nevertheless, we believe the terms used in that section are easily comprehended. Further, this section closely resembles those found in other Federal agencies' debarment regulations. If we are to honor other agency debarment, it seems practical that our causes for debarments be consistent wherever possible.

Initiation of Debarment

Some commenters suggested that the Director's decision to pursue or not pursue a debarment action should receive concurrence of other affected EPA offices. Since we anticipate a closely coordinated process, these matters are being reserved for proper attention in our internal debarment guidance. They are not appropriate for inclusion in this regulation.

Notice

Many commenters questioned whether the 10-day period provided for response to notices in §§ 32.202 and 32.204 was sufficient. Given the need to obtain and consult with counsel before making a decision to request a hearing, we have decided that additional time is appropriate. Therefore, we have increased the time for response to 30 calendar days from the date of notice. Similarly, we have permitted 30 calendar days to decide whether to appeal a determination by the Director. Also, we increased from 5 to 10 the number of calendar days a party has to petition the hearing officer or panel for reconsideration under § 32.206.

Hearings

One commenter suggested that this rule will impose a financial hardship on local agencies because they need to travel to Washington, D.C. to attend the hearing. The regulation does not specify the location of hearings. It is EPA's policy to conduct hearings at a time and place reasonably convenient to the parties taking into consideration the financial burden on all parties, access to witnesses, location of documents, site of construction if appropriate, etc. In most cases, hearings will be conducted in the EPA regional office having jurisdiction over the person or project which is the subject of suspension or the proposed debarment. Matters which do not require oral presentations or site visits, such as decisions related to mitigating circumstances and petitions for reconsideration or reinstatement, may be held in Washington, D.C.

Appeal

The proposed rule did not provide a means of formal appeal. It did, however, permit review by the Administrator. Several commenters suggested that we eliminate the Administrator's review in favor of a formal appeal. We believe this is sound advice and have therefore eliminated the Administrator's review and replaced it with a formal system of appeal to EPA's existing Board of Assistance Appeals.

Reinstatement

One commenter suggested that reinstatement be conditioned upon repayment of money (or other method of settlement) to all defrauded parties

when the cause for debarment related to such an offense. We disagree. While such settlements are desirable, and whether settlement has been made will always be a factor to consider in a case for reinstatement, it would be inappropriate to require it as an absolute condition for reinstatement. Debarment is imposed only to protect EPA's interest in its assistance programs. Once that interest is no longer in jeopardy, consideration for reinstatement is proper. To make repayment a condition for reinstatement would in effect transform the debarment process into a process for the interests of persons other than EPA. Moreover, EPA has separate procedures for the collection of debts owed to it. *See* 4 CFR Chapter II which implements the Federal Claims Collection Act.

Another commenter asked what the clause "unless prohibited by statute" referred to in § 32.207(c) of the proposed rule. That clause, which appears in § 32.208(a) in the final rule, refers to statutory debarments such as those by the Department of Labor and the Comptroller General for violations of the Davis-Bacon Act, the Walsh-Healey Public Contracts Act, the Copeland Anti-Kickback Act, the Contract Work Hours and Safety Standards Act, the Service Contract Act, the Buy American Act, and noncompliance with the "Equal Employment" clause of Government Contracts. Those debarments are mandatory; the Director, Grants Administration Division, is without authority to reinstate those persons.

Suspension

In *Peter Kiewit Son's Co. v. U.S. Army Corps of Engineers,* No. Civ. 81–3192, (D.D.C. February 26, 1982), the U.S. District Court for the District of Columbia held that suspension without prior notice or hearing imposed for a period in excess of 30 calendar days constituted a *de facto* debarment. The *Keiwit* decision highlights an important limitation on an agency's suspension authority which was first articulated by the U.S. Court of Appeals for the District of Columbia in *Horne Brothers, Inc. v. Laird,* 463 F.2d 1268 (D.C. Cir. 1972). Consequently, we revised § 32.301, to restrict suspensions to a period of 30 calendar days unless the notice requirements of § 32.302 are satisfied.

Implementation

Many commenters suggested that the Master List of debarred and suspended persons should be maintained and updated on a predictable schedule. We agree and have revised section 32.500 to require distribution of an updated list on a calendar quarter schedule. The final regulation also mandates that a copy of the list be sent to one central office (Office of Regional Counsel) in each region for inspection or further distribution, as appropriate.

One commenter noted that § 32.500(b) of the proposed rule would permit debarment of a state agency if it conducts business with a local agency named on the Master List. The commenter believes that such action could interfere with the state's ability to coordinate its air pollution control program. While State and local pollution control program coordination is an important consideration when contemplating a suspension or debarment action, it is not necessarily the primarily one. EPA will make every effort to protect the integrity of its assistance programs without resorting to suspension or debarment. However, public agencies are expected to excerise the same degree of stewardship over EPA assistance as is expected of private contractors. Where protection of the taxpayer's investment can be achieved only by suspension or debarment of a public agency, EPA will do so.

Regulation Development Process

Under Executive Order 12291, EPA must judge whether a rule is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not major because it will not have an annual effect on the economy of $100 million or more. This rule was submitted to the Office of Management and Budget for review, as required by Executive Order 12291.

Dated: August 11, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

List of Subjects in 40 CFR Part 32

Administrative practice and procedure, Grant programs—environmental protection, Technical assistance.

Title 40 CFR is amended by adding a new Part 32 as follows:

PART 32—DEBARMENT AND SUSPENSION UNDER EPA ASSISTANCE PROGRAMS

Sec.
32.100 Policy and scope.
32.101 Applicability.
32.102 Definitions.
32.200 Causes for debarment.
32.201 Initiation of debarment.
32.202 Affiliates and imputed conduct.
32.203 Period of debarment.
32.204 Notice.
32.205 Hearing.
32.206 Determination.
32.207 Appeals.
32.208 Reinstatement.
32.209 Limited participation.
32.210 Voluntary exclusions and settlements.
32.300 Suspension.
32.301 Period and scope of suspension.
32.302 Notice, hearing, determination and appeal.
32.400 Master list.
32.500 Implementation.

Authority: 7 U.S.C. 136 *et seq.;* 15 U.S.C. 2601 *et seq.;* 33 U.S.C. 1251 *et seq.;* 42 U.S.C. 300f *et seq.,* 4901 *et seq.,* 6901 *et seq.,* 7401 *et seq.,* 9601 *et seq.*

§ 32.100 Policy and scope.

It is EPA's policy to do business only with participants which properly use Federal assistance. Thus, EPA shall deny participation in programs to those who have been debarred or suspended under this Part. Debarment and suspension shall be used to protect the interests of the Government and are not intended to be sanctions, penalties, or forms of punishment. No action shall be taken under this Part unless there is a reasonable connection between performance under an EPA assistance program and the offense the person being debarred or suspended is alleged to have committed.

§32.101 Applicability.

This Part applies to all EPA assistance programs and subagreements under EPA assistance programs.

§ 32.102 Definitions.

(a) *Adequate evidence* means more than mere accusation but less than substantial evidence. Consideration must be given to the amount of credible information available, reasonableness in view of surrounding circumstances, corroboration, and other inferences which may be drawn from the existence or absence of affirmative facts.

(b) *Affiliate* means any person whose governing instruments require it to be bound by the decision of another person or whose governing board includes enough voting representatives of the other person to cause or prevent action, whether or not the power is exercised. It may also include persons doing business under a variety of names, or where there is a parent/subsidiary relationship between persons.

(c) *Assistance* means EPA's contribution to a project under a grant, cooperative agreement, technical assistance award, inter-governmental agreement, or award under the Intergovernmental Personnel Act.

(d) *Director* means the Director, Grants Administration Division.

(e) *Debarment* means an action taken by the Director under §32.206 to deny a

person the opportunity to participate in EPA assistance or subagreements.

(f) *Governing instruments* means those legal documents which establish the existence of an organization and define its powers and parameters of operation. They include such documents as the Articles of Incorporation or Association, Constitution, Charter and By-Laws.

(g) *Intergovernmental agreement* means any written agreement between units of government under which one public agency performs duties for or in concert with another public agency using EPA assistance. This includes substate and interagency agreements.

(h) *Person* means any individual, organization or unit of government that is or may become eligible to receive EPA assistance, or its employee. It also means any individual or organization that is or may become eligible to receive a subagreement or intergovernmental agreement.

(i) *Subagreement* means a written agreement between a recipient of EPA assistance and another party (other than a public agency) and any tier of agreement thereunder for the furnishing of supplies, services, or equipment necessary to complete the project for which the assistance was awarded. These agreements include contracts and subcontracts for personal and professional services, agreements with consultants, and purchase orders.

(j) *Suspension* means an action taken by the Director under § 32.300 to disqualify a person temporarily from receiving any EPA assistance or subagreement.

(k) *Substantial evidence* means such relevant evidence as a reasonable person might accept as sufficient to support a particular conclusion.

§ 32.200 Causes for debarment.

A person or its affiliate may be debarred for the following:

(a) Conviction of or a civil or nolo contendere judgment obtained for:

(1) Criminal commission of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property;

(2) Violation of law or regulation relating to personal or organizational conflict of interest as an incident to obtaining, attempting to obtain, or in the performance of, Federally or State assisted programs or public contracts; or

(3) Violation of Federal or State antitrust statutes arising out of submission of applications, bids, or proposals.

(b) Involvement in bribery or other unlawful or corrupt practices on a public contract or publicly-assisted project.

(c) A willful or serious failure to perform, or a recent history of substantial non-compliance with the terms of, one or more Federal assistance agreements, contracts, or subagreements.

(d) Violation of any contractual provision against receipt of contingent fees.

(e) Record of noncompliance with rules and regulations governing public assistance and contracts so as to indicate a careless attitude toward good faith compliance.

(f) Debarment by any Federal agency.

(g) Failure to pay debts to EPA that have been finally adjudicated and that are not subject to a good faith defense by the debtor.

(h) Doing business on any EPA project, or portion thereof, with a person, who, at the time of initiation of such business, was listed on the Master List (see § 32.400) and it is known or should have been known that the person was on the list.

(i) For any other causes of a serious and compelling nature indicating lack of business integrity or competency which may be determined to justify debarment.

§ 32.201 Initiation of debarment.

Anyone may contact the Director concerning the existence of a cause for debarment. The Director may refer the matter to EPA's Inspector General or other appropriate office for further investigation. If, after review or investigation, the Director reasonably believes that a cause for debarment exists, the Director may propose debarment under § 32.204.

§ 32.202 Affiliates and imputed conduct.

(a) Where the Director proposes to debar an affiliate, the affiliate shall have a right to:

(1) Receive notice of the proposed debarment; and

(2) Intervene in any hearing held on the proposed debarment to show mitigating circumstances or that the affiliate had no actual or imputed knowledge of or involvement in the improper conduct.

(b) The affiliate must, in writing, advise the Director within 30 calendar days of the notice of the proposed debarment of its intention to act under paragraph (a)(2) of this section. Failure to provide written notice within the 30 calendar-day period shall be a waiver of the right to intervene in the hearing.

(c) The improper conduct of a person or its affiliate having a subagreement with an assistance recipient or its contractor may be imputed to the assistance recipient or contractor for purposes of debarment where the impropriety occurred in connection with the person's duties for or on behalf of, or with the knowledge, approval, or acquiescence of, the recipient, contractor, or their management.

§ 32.203 Period of debarment.

(a) Unless otherwise provided in this section, debarment shall be for a period of time commensurate with the seriousness of the cause for debarment, not to exceed 3 years from the date of debarment determination.

(b) Where debarment is based solely upon debarment by another Federal agency, the period of debarment may run concurrently with the period established by that other debarring agency.

(c) Debarment may be for an indefinite period where a person who was previously debarred by any Federal agency is determined to have repeated the same offense.

§ 32.204 Notice.

(a) When the Director decides to propose debarment, the Director shall notify the person and affected affiliates, in writing, of the proposed debarment by certified mail, return receipt requested. Notice, if undeliverable, shall be considered to have been received by the addressee if properly sent to the last address known by EPA.

(b) The notice shall state:

(1) That debarment is being proposed;

(2) The specific acts or omissions which form the basis of the proposed debarment;

(3) That the party being served will be accorded an opportunity for a hearing if the person so requests and the request is made in writing within 30 calendar days after the date of notice; and

(4) That failure to timely request a hearing will result in debarment as proposed.

(c) If the person is under suspension, the notice of proposed debarment shall specify that unless the suspension order is terminated, the suspension continues until the debarment proceedings are completed. If the suspension and debarment actions are taken simultaneously, the notice shall also include all of the information required by § 32.302 of this part.

§ 32.205 Hearing.

(a) The Director shall act as a hearing officer or appoint a hearing officer or panel which shall conduct a hearing if the person or affiliate who is the subject of a proposed debarment action requests a hearing in accordance with § 32.204(b)(3) of this Part.

(b) The hearing officer or panel shall arrange for a prompt hearing and notify the parties, in writing, of the time and place of the hearing. In no event shall the hearing be initiated later than 6 months after the request is received unless the Inspector General determines that an earlier hearing is likely to jeopardize an investigation.

(c) The hearing shall be conducted in an informal manner without formal rules of evidence or procedure. Persons shall have the right of counsel, and the right to call, ask questions of, and confront witnesses.

(d) A transcribed record of the hearing shall be made available, at cost upon request.

(e) The existence of the cause(s) for debarment shall be proved by substantial evidence, except where the cause is established under § 32.200(a)(1) of this Part by proof of judgment or conviction of the offenses.

§ 32.206 Determination.

(a) The hearing officer or panel shall make a written determination on the evidence presented, including mitigating factors and the extent to which the determination applies to any affiliates named in the action. The determination shall be reviewed by the Director, who, if he or she agrees with the findings, shall sign and send it to all parties by personal service or certified mail, return receipt requested.

(b) Any party may seek reconsideration for alleged errors of fact or law. The request must specifically describe the basis for the request and must be filed with the hearing officer or panel within 10 calendar days from the date of the person's receipt of the determination.

(c) Where a debarred person is the recipient of an assistance award, the award shall be evaluated on its own merits by the award official to see if it should be terminated under Part 30 of this subchapter.

§ 32.207 Appeals.

(a) The determination under § 32.206 shall be final. However, any party to the debarment action may request EPA's Board of Assistance Appeals to review the findings of the hearing officer or panel within 30 calendar days of the determination, or its reconsideration.

(b) If an appeal is requested, the Director may stay the effective date of debarment pending the Board's determination. If debarment is stayed, the stay shall be automatically lifted if the Board affirms the Director's determination.

(c) Notice of the Board's decision to review the hearing determination and the subsequent determination by the Board shall be in writing and sent to all parties by personal service or certified mail, return receipt requested.

(d) Where a review is granted, the determination by the Board shall be final and shall be based solely on the record of the hearing. The Board's scope of review shall be limited to setting aside hearing determinations found to be arbitrary, capricious, or an abuse of discretion, or based upon clear errors of law. The final determination shall recite the grounds upon which the Board's determination is made.

(e) The decision to debar shall not be the subject of a dispute, appeal, or bid protest under Part 30 or Part 33 of this subchapter.

§ 32.208 Reinstatement.

(a) Unless prohibited by statute, the Director may at any time reinstate a debarred person or rescind the debarment upon a determination that the cause(s) upon which the debarment is based no longer exists.

(b) Any debarred person may request reinstatement by submitting a petition to the Director supported by documentary evidence showing that the cause(s) for debarment no longer exists or has been substantially mitigated.

(c) The decision whether to reinstate will ordinarily be based on written statements with supporting documentation without a further hearing. However, the Director may require a hearing on the request for reinstatement.

(d) The decision on reinstatement shall be in writing and shall specify the factors on which it is based.

(e) Decisions on reinstatement requests are not subject to appeal.

§ 32.209 Limited participation.

In an emergency, the Director may allow a debarred person to participate in EPA programs on a limited basis during the debarment period. In such situations, the Director shall make a written determination that the public interest requires such participation. The determination shall specify the factors on which it is based and define the extent of the limits imposed.

§ 32.210 Voluntary exclusions and settlements.

(a) When in the best interest of EPA, the Director may, at any time prior to the determination, settle a debarment action or enter into an agreement with a person providing for that person's voluntary exclusion from EPA programs for a specified period of time.

(b) Voluntary exclusions and settlements are not findings of debarment by EPA. However, violations of agreements for voluntary exclusions and settlements may result in initiation of debarment proceedings as originally proposed.

§ 32.300 Suspension.

(a) Whenever there is adequate evidence that grounds for debarment exist, the Director may suspend a person from receiving any award in accordance with the procedures in § 32.302.

(b) The Director shall suspend only where compelling reasons exist to protect the interests of EPA which would be jeopardized by waiting for completion of a debarment hearing or action. The Director may also suspend a person or its affiliates if there is referral of a criminal matter to the Department of Justice, initiation of a grand jury proceeding regarding the matter, or an outstanding indictment or information for a criminal offense and where there is a reasonable connection between those matters and performance under an EPA assistance program.

§ 32.301 Period and scope of suspension.

(a) Unless otherwise agreed to by the parties, the period of suspension shall be:

(1) No more than 30 calendar days without satisfying the notice requirements of § 32.302;

(2) Until completion of an investigation and ensuing legal proceedings, including debarment proceedings, where suspension is based upon referral of a matter to the Department of Justice, initiation of a grand jury proceeding, or issuance of an indictment or criminal information; or

(3) Six months unless a debarment proceeding is initiated within six months after issuance of a notice of suspension in which case suspension shall continue in effect until issuance of a debarment order.

(b) The Director shall determine whether to include affiliates in a suspension action on a case-by-case basis.

(c) For purpose of suspension, a person's conduct may be imputed to another person in accordance with § 32.202.

(d) Any person who knowingly participated in the conduct may also be suspended. The person is entitled to notice and opportunity for a hearing in accordance with § 32.302.

§ 32.302 Notice, hearing, determination and appeal.

(a) When a person is suspended, the Director shall issue a notice of the suspension to all affected persons by

personal service or certified mail, return receipt requested. Notice, if undeliverable, shall be considered to have been received by the addressee if properly sent to the last address known by EPA.

(b) The notice of suspension shall state:

(1) The bases for suspension and identify the indictment or describe the specific nature of the irregularities, without disclosing the Government's evidence;

(2) The period of the suspension;

(3) Bids, proposals, and applications for assistance will not be solicited or accepted from the person and, if received, will not be considered; and

(4) The person given notice is entitled to a hearing on the suspension if the person requests a hearing within 30 calendar days after the date of the notice.

(c) A hearing under this section shall be conducted, to the extent practicable, in accordance with the procedures in § 32.205 (a) through (d).

(d) The hearing officer or panel shall make a written suspension determination on the evidence presented, including mitigating factors and the extent to which the determination applies to any affiliates named in the action. The determination shall be reviewed by the Director, who, if he or she agrees with the findings, shall sign and send it to all parties by personal service or certified mail, return receipt requested.

(e) Any party may seek reconsideration for alleged errors of fact or law in accordance with the procedures in § 32.206(b).

(f) The suspension determination shall be final. However, any party to the suspension action may request EPA's Board of Assistance Appeals to review the findings of the hearing officer or panel in accordance with the procedures in § 32.207. If an appeal is requested, the Director may stay the effective date of suspension pending the Board's determination. If a suspension is stayed, the stay shall be automatically lifted if the Board affirms the Director's determination.

(g) The initial decision to suspend shall not be the subject of a dispute, appeal, or bid protest under Part 30 or Part 33 of this subchapter.

§ 32.400 Master list.

(a) The Director shall maintain a Master List of debarments, suspensions, and voluntary exclusions under this Part.

(b) The Master List shall show as a minimum the following information:

(1) The names of those persons whom EPA has debarred or suspended under this Part;

(2) The basis of authority for such action;

(3) The period of debarment or suspension, including the expiration date(s); and

(4) The name of the debarring or suspending agency, where EPA's debarment or suspension is based on debarment or suspension by another Federal agency.

(c) The Master List shall include a separate section listing persons voluntarily excluded from participation in EPA programs.

§ 32.500 Implementation.

(a) The Director shall send to each Regional Counsel and publish in the **Federal Register** an updated copy of the Master List at least each calendar quarter during the year.

(b) The list shall be made available to anyone for inspection to determine a person's eligibility for award.

(c) Award of EPA assistance or subagreements shall not be made to any person on the Master List.

(d) Doing business under an EPA assistance agreement with a person who is named on the Master List may result in disallowance of costs under such agreement and may result in suspension or debarment under this part.

[FR Doc. 82-22347 Filed 8-16-82; 8:45 am]

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federal register

Tuesday
August 17, 1982

Part VI

Department of Health and Human Services

Social Security Administration

Supplemental Security for the Aged, Blind, and Disabled; Burial Plots and Prepaid Burial Contracts

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Burial Plots and Prepaid Burial Contracts

AGENCY: Social Security Administration, HHS.

ACTION: Interim rule with request for comments.

SUMMARY: The Department of Health and Human Services is amending its definition of resources under the Supplemental Security Income (SSI) program to specify that burial plots or prepaid burial contracts are not resources for purposes of determining eligibility for SSI. This change in policy is necessary so that SSI applicants and recipients who purchase burial plots do not risk losing their eligibility for SSI benefits.

DATES: This regulation will be effective on an interim basis upon publication in the **Federal Register.** If we receive your comments no later than October 18, 1982, they will be considered in developing the final regulations.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3–A–3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7414.

SUPPLEMENTARY INFORMATION: Section 1611 of the Social Security Act (Act) provides that for purposes of the SSI program a person's countable resources may not exceed $1,500 ($2,250 for a couple). The statute does not define the term "resources". SSI regulations generally define resources as all assets which a person owns and can be converted to cash to be used for his or her support and maintenance. Currently, assets which are not specifically excluded by law (section 1613 of the Act), which are available for a person's support and maintenance, or which are deemed to the individual are counted in determining SSI eligibility, regardless of their intended use. We are amending our definition of resources for SSI purposes so that burial plots or prepaid (that is, fully paid or currently being paid) burial contracts will no longer be considered resources. We are doing this because these items will not realistically be used by an SSI applicant or recipient to meet his or her current subsistence needs. We have found this to be true because most persons who make arrangements for their burial often will not change such arrangements under any circumstances. This regulation applies to a burial plot or burial contract intended for the use of an applicant for, or recipient of, SSI benefits or to such plots or contracts for the use of persons whose resources are deemed to the applicant or receipient.

Prior agency policy has been to require generally that these items be counted as resources. This policy has resulted in some inequities since burial plots or prepaid burial contracts are not always considered resources. For example, a double plot in which one person is already buried is generally not considered saleable and thus is not a resource. Also, some burial contracts are written to prevent resale or recovery of the purchase price. In these cases the burial contracts are not resources. In addition, some persons who were transferred from State assistance programs for the aged, blind or disabled to the SSI rolls when the SSI program began may be permitted to have these assets without affecting their SSI eligibility provided the State program did not count burial plots or burial contracts in determining eligibility. These special situation mean that one person who owns burial plots or burial contracts may be eligible for SSI while another is not.

Relatively few persons have been denied SSI benefits because burial plots or burial contracts were counted as resources. Nevertheless, in light of the inequities noted above and the fact that such items will not be used to meet current subsistence needs, we have decided to revise our policy.

Delaying the effective date of this regulation would be unfair to those people who are disadvantaged by the current rule. Moreover, the revised policy promotes efficient program administration and is consistent with the proposes of the SSI program. For these reasons, the Secretary finds that there is good cause for foregoing a Notice of Proposed Rulemaking in that it would be contrary to the public interest to postpone implementation of this regulation (5 U.S.C. 553(b)(B)).

Executive Order 12291: This regulation has been reviewed under Executive Order 12291 and does not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act: This regulation imposes no additional reporting or recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act: We certify that this regulation does not have a significant economic impact on a substantial number of small entities because these rules affect only individuals and States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not burial plots or burial contracts were counted as resources. Nevertheless, in light of the inequities noted above and the fact that such items will not be used to meet current subsistence needs, we have decided to revise our policy.

Delaying the effective date of this regulation would be unfair to those people who are disadvantaged by the current rule. Moreover, the revised policy promotes efficient program administration and is consistent with the pruposes of the SSI program. For these reasons, the Secretary finds that there is good cause for foregoing a Notice of Proposed Rulemaking in that it would be contrary to the public interest to postpone implementation of this regulation (5 U.S.C. 553(b)(B)).

Executive Order 12291: This regulation has been reviewed under Executive Order 12291 and does not met any or the criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act: This regulation imposes no additional reporting or recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act: We certify that this regulation does not have a significant economic impact on a substantial number of small entities because these rules affect only individuals and States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public

assistance programs, Supplemental security income (SSI).

Dated: August 6, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: August 11, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart L of Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended to read as follows:

1. The authority citation for Subpart L of Part 416 reads as follows:

Authority: Secs. 1102, 1601, 1602, 1611, 1612, 1613, 1614(f) and 1631(d) of the Social Security Act, as amended; 49 Stat. 647, as amended; 86 Stat. 1465, 1466, 1468, 1470, 1473; 42 U.S.C. 1302, 1381, 1381a, 1382, 1382a, 1382b, 1382c(f) and 1383(d).

2. Section 416.1201(a) is amended by adding a sentence at the end of the existing section to read as follows:

§ 416.1201 Resources; general.

(a) *Resources; defined.* * * *

Whether or not they can be liquidated, the following are not resources: (1) A burial plot intended for the use of a person who is applying for or receiving SSI benefits, or burial plots for the use of persons whose resources, if any, are deemed to the person who is applying for or receiving SSI benefits (see §§ 416.1202, 416.1203). A burial plot includes a crypt, mausoleum or other repository for the remains of a deceased person.

(2) A burial contract which has been prepaid (that is, fully paid or currently being paid) to provide solely for the burial and attendant services of a person who is applying for or receiving SSI benefits or for the burial of persons whose resources, if any, are deemed to the person who is apply for or receiving SSI benefits (see §§ 416.1202, 416.1203). For SSI purposes, a burial contract is an agreement in which a provider of funeral services and burial items (for example, funeral director, operator of a crematorium, etc.) agrees to provide a person certain services and items in connections with his or her burial or other final arrangements.

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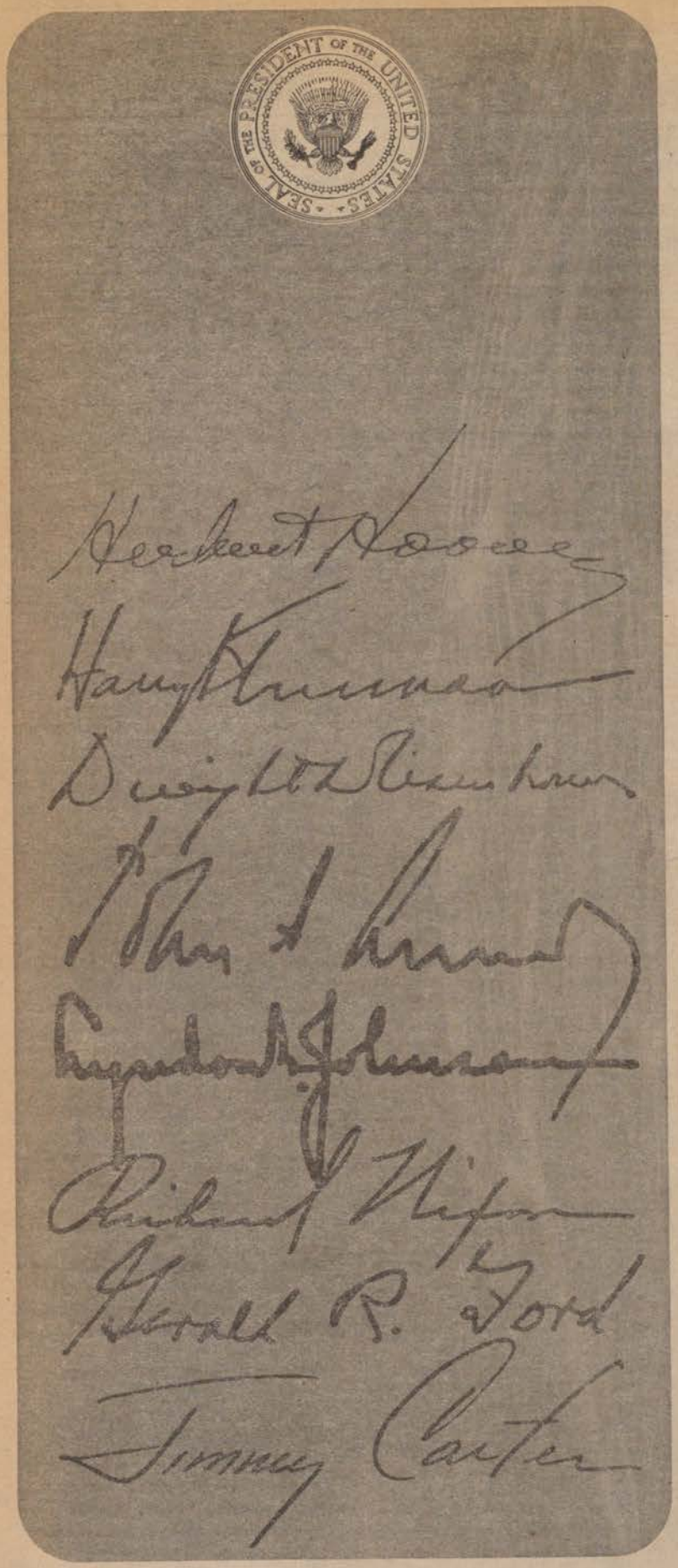

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